

HOUSE JOURNAL

SEVENTY-NINTH LEGISLATURE, REGULAR SESSION

PROCEEDINGS

SIXTY-SEVENTH DAY — THURSDAY, MAY 12, 2005

The house met at 10 a.m. and was called to order by the speaker.

The roll of the house was called and a quorum was announced present (Record 617).

Present — Mr. Speaker; Allen, A.; Allen, R.; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Davis, J.; Dawson; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hunter; Hupp; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Absent, Excused — Deshotel; Hodge.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; Luna; Pitts; Turner.

Absent — Alonzo; Bailey; Crownover; Davis, Y.; Gonzalez Toureilles; Harper-Brown; Hughes; Isett; Noriega, M.; Phillips; Smith, T.; Taylor.

The invocation was offered by James Denison, pastor, Park Cities Baptist Church, Dallas.

The speaker recognized Representative Branch who led the house in the pledges of allegiance to the United States and Texas flags.

REGULAR ORDER OF BUSINESS SUSPENDED

On motion of Representative Keel and by unanimous consent, the reading and referral of bills was postponed until just prior to adjournment.

CAPITOL PHYSICIAN

The speaker recognized Representative T. King who presented Dr. Mary S. Nguyen Poole of Castroville as the "Doctor for the Day."

The house welcomed Dr. Nguyen Poole and thanked her for her participation in the Physician of the Day Program sponsored by the Texas Academy of Family Physicians.

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today because of appropriations business:

Gattis on motion of Solomons.

Kolkhorst on motion of Solomons.

Luna on motion of Solomons.

Pitts on motion of Solomons.

Turner on motion of Solomons.

The following member was granted leave of absence temporarily for today because of important business:

Deshotel on motion of Hopson.

The following member was granted leave of absence for today because of illness in the family:

Hodge on motion of Keel.

(Edwards in the chair)

HR 1259 - ADOPTED (by Naishtat)

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **HR 1259**.

The motion prevailed.

The following resolution was laid before the house:

HR 1259, Honoring Viola White House of Austin on her 104th birthday.

HR 1259 was read and was adopted.

(Gonzalez Toureilles now present)

On motion of Representative Geren, the names of all the members of the house were added to **HR 1259** as signers thereof.

INTRODUCTION OF GUESTS

The chair recognized Representative Naishtat who introduced Viola White House, Rosa Jo Dent, Linda Boozer, and Brenda Boucher.

INTRODUCTION OF GUESTS

The chair recognized Representative J. Jones who introduced members of Omega Psi Phi Fraternity, Incorporated.

(Speaker in the chair)

HCR 191 - ADOPTED
(by Homer)

Representative Homer moved to suspend all necessary rules to take up and consider at this time **HCR 191**.

The motion prevailed.

The following resolution was laid before the house:

HCR 191, In memory of Star Nuckolls of Como.

HCR 191 was read and was unanimously adopted by a rising vote.

HR 1499 - ADOPTED
(by Keel)

Representative Keel moved to suspend all necessary rules to take up and consider at this time **HR 1499**.

The motion prevailed.

The following resolution was laid before the house:

HR 1499, Honoring the members of the James Bowie High School Outdoor Performing Ensemble of Austin on their victory at the 2004 Fiesta Bowl National Band Championship and their record of achievement.

HR 1499 was read and was adopted.

On motion of Representative Naishtat, the names of all the members of the house were added to **HR 1499** as signers thereof.

INTRODUCTION OF GUESTS

The speaker recognized Representative Keel who introduced representatives of the Bowie High School Band, Bowie High School Band Boosters, Bowie High School, and Austin Independent School District.

(Y. Davis, Harper-Brown, Isett, and Phillips now present)

HR 1534 - ADOPTED
(by Naishtat)

Representative Naishtat moved to suspend all necessary rules to take up and consider at this time **HR 1534**.

The motion prevailed.

The following resolution was laid before the house:

HR 1534, In memory of Jesse Chambers of Austin.

HR 1534 was read and was unanimously adopted by a rising vote.

(Hughes now present)

HR 1215 - ADOPTED
(by Laubenberg)

Representative Laubenberg moved to suspend all necessary rules to take up and consider at this time **HR 1215**.

The motion prevailed.

The following resolution was laid before the house:

HR 1215, Recognizing the city of Rockwall for its rich history as a favored wedding locale.

HR 1215 was read and was adopted.

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, House List No. 41).

HR 1622 - ADOPTED (by Vo)

Representative Vo moved to suspend all necessary rules to take up and consider at this time **HR 1622**.

The motion prevailed.

The following resolution was laid before the house:

HR 1622, Recognizing May 2005 as Asian–Pacific American Heritage Month in Texas.

HR 1622 was adopted.

(T. Smith now present)

HR 1627 - ADOPTED (by Escobar)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 1627**.

The motion prevailed.

The following resolution was laid before the house:

HR 1627, Recognizing the presentation of an Official Texas Historical Marker honoring St. Paul Lutheran Church in Kingsville.

HR 1627 was adopted.

HR 1515 - ADOPTED (by Keel)

Representative Edwards moved to suspend all necessary rules to take up and consider at this time **HR 1515**.

The motion prevailed.

The following resolution was laid before the house:

HR 1515, Honoring the students of Kiker Elementary School in Austin for their generosity in behalf of troops serving in Iraq.

HR 1515 was adopted.

HB 1829 - VOTE RECONSIDERED

Representative Coleman moved to reconsider the vote by which **HB 1829** failed to pass to engrossment.

The motion to reconsider prevailed.

HB 1829 ON SECOND READING

(by Wong)

HB 1829, A bill to be entitled An Act relating to authorizing private or independent institutions of higher education to charge fees for processing or handling certain payments or payment transactions.

Amendment No. 1

Representative Coleman offered the following amendment to **HB 1829**:

Amend **HB 1829** as follows:

(1) On page 1, line 20, strike "A" and substitute "Subject to Subsection (d), a".

(2) On page 2, strike lines 5-8 and substitute the following:

(d) A fee or other charge under this section may not exceed the actual expense incurred by the institution as a result of accepting the payment by means of an electronic funds transfer or a credit card or as a result of the payment transaction being dishonored or refused.

(Alonzo now present)

Amendment No. 1 was adopted.

HB 1829, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

GENERAL STATE CALENDAR**SENATE BILLS****THIRD READING**

The following bills were laid before the house and read third time:

SB 350 ON THIRD READING

(Woolley - House Sponsor)

SB 350, A bill to be entitled An Act relating to the establishment and use of a columbarium by a church in certain municipalities.

SB 350 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 1309 ON THIRD READING
(Miller - House Sponsor)

SB 1309, A bill to be entitled An Act relating to member restrictions for commissioners of the Texas Workforce Commission.

A record vote was requested.

SB 1309 was passed by (Record 618): 123 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Elkins; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Geren; Giddings; Gonzalez Tourelles; Goodman; Goolsby; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Madden; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Deshotel; Hodge.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; Luna; Pitts; Turner.

Absent — Bailey; Burnam; Campbell; Corte; Crabb; Crownover; Eissler; Flores; Gonzales; Griggs; Grusendorf; Hughes; McClendon; Noriega, M.; Rose; Seaman; Taylor; Thompson.

STATEMENTS OF VOTE

When Record No. 618 was taken, I was temporarily out of the house chamber. I would have voted yes.

Eissler

When Record No. 618 was taken, I was in the house but away from my desk. I would have voted yes.

Gonzales

When Record No. 618 was taken, I was temporarily out of the house chamber. I would have voted yes.

Taylor

SB 1000 ON THIRD READING
(McReynolds - House Sponsor)

SB 1000, A bill to be entitled An Act relating to the regulation of the practice of nursing.

A record vote was requested.

SB 1000 was passed by (Record 619): 132 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Davis, Y.; Dawson; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Mowery; Naishtat; Nixon; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Deshotel; Hodge.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; Luna; Pitts; Turner.

Absent — Bailey; Coleman; Crownover; Davis, J.; Gonzales; Morrison; Noriega, M.; Seaman; Taylor.

STATEMENTS OF VOTE

When Record No. 619 was taken, I was in the house but away from my desk. I would have voted yes.

Gonzales

When Record No. 619 was taken, I was temporarily out of the house chamber. I would have voted yes.

Taylor

(M. Noriega now present)

(Harper-Brown in the chair)

SB 1273 ON THIRD READING
(Geren - House Sponsor)

SB 1273, A bill to be entitled An Act relating to the establishment of the Texas farm and ranch lands conservation program.

SB 1273 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 1464 ON THIRD READING
(Puente - House Sponsor)

SB 1464, A bill to be entitled An Act relating to funds to be used for nuclear decommissioning purposes by electric utilities.

SB 1464 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 1670 ON THIRD READING
(Callegari - House Sponsor)

SB 1670, A bill to be entitled An Act relating to a motor vehicle financial responsibility verification program; providing a penalty.

SB 1670 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 1708 ON THIRD READING
(Swinford - House Sponsor)

SB 1708, A bill to be entitled An Act relating to assessments levied on certain owners of cattle and used for marketing, education, research, and promotion of Texas beef.

A record vote was requested.

SB 1708 was passed by (Record 620): 135 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Hamilton; Hamric; Hardcastle; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg;

Leibowitz; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Thompson; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Deshotel; Hodge.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; Luna; Pitts; Turner.

Absent — Bailey; Crownover; Haggerty; Taylor; Truitt.

STATEMENT OF VOTE

When Record No. 620 was taken, I was temporarily out of the house chamber. I would have voted yes.

Taylor

(Taylor now present)

SB 454 ON THIRD READING (Seaman - House Sponsor)

SB 454, A bill to be entitled An Act relating to commercial shrimp boat licenses and to the creation of a gulf shrimp license moratorium program.

A record vote was requested.

SB 454 was passed by (Record 621): 137 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Deshotel; Hodge.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; Luna; Pitts; Turner.

Absent — Bailey; Baxter; Jones, D.

STATEMENT OF VOTE

When Record No. 621 was taken, I was in the house but away from my desk. I would have voted yes.

Baxter

SB 272 ON THIRD READING (Seaman - House Sponsor)

SB 272, A bill to be entitled An Act relating to the creation of an oyster license moratorium program.

A record vote was requested.

SB 272 was passed by (Record 622): 137 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Hartnett; Herrero; Hilderbran; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Straus; Straus; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker; Harper-Brown(C).

Absent, Excused — Deshotel; Hodge.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; Luna; Pitts; Turner.

Absent — Bailey; Hegar; Swinford.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

HB 3410 ON SECOND READING**(by Rose)**

HB 3410, A bill to be entitled An Act relating to immunity from liability for certain civil actions and civil actions against sales agents.

HB 3410 was read second time on May 10 and was postponed until 8 a.m. today.

HB 3410 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Farrar and Leibowitz recorded voting no.)

CSHB 1779 ON SECOND READING**(by P. King)**

CSHB 1779, A bill to be entitled An Act relating to the continuation, administration, and operations of the Public Utility Commission of Texas and the Office of Public Utility Counsel.

CSHB 1779 was read second time on May 5, postponed until May 11, and was again postponed until 10 a.m. today.

Amendment No. 1

Representative P. King offered the following amendment to **CSHB 1779**:

Amend **CSHB 1779** as follows:

- (1) On page 29, line 25, strike "another state, or another state agency".
- (2) On page 30, line 9, strike "\$10,000" and substitute "\$15,000".
- (3) On page 30, line 10, strike "not".
- (4) On page 30, line 15, between "penalty" and the period, insert "unless the commission finds that the violation was committed wilfully and knowingly".
- (5) On page 36, lines 16 and 17, strike "[public utility's, retail electric provider's, or electric cooperative's]" and substitute "[public] utility's, retail electric provider's, provider's, or electric cooperative's".
- (6) On page 38, lines 8-11, strike "It is the policy of this state to encourage electric utilities and transmission and distribution utilities to use securitization financing [stranded costs,] because this" and substitute "This [stranded costs, because this]".
- (7) Insert the following appropriately numbered SECTION to the bill and renumber following SECTIONS as appropriate:

SECTION _____. Section 39.205, Utilities Code, is amended to read as follows:

Sec. 39.205. REGULATION OF COSTS FOLLOWING FREEZE PERIOD. At the conclusion of the freeze period, any remaining costs associated with nuclear decommissioning obligations continue to be subject to cost of service rate regulation and shall be included as a nonbypassable charge to retail customers. The commission may adopt rules necessary to ensure that money for

decommissioning is prudently collected, managed, and spent for its intended purpose and that money that remains unspent after decommissioning is completed is returned to retail customers.

Amendment No. 2

Representative P. King offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 for **CSHB 1779** as follows:

(1) On page ____, line ____, insert a new SECTION and renumber the subsequent SECTIONS accordingly:

"SECTION ____. Chapter ____, Utilities Code, is amended by adding new Section, appropriately numbered, as follows:

Section ____ . RECOVERY OF TAXABLE TELECOM RECEIPT ASSESSMENT

(a) To the extent an annual assessment is imposed on each telecommunications provider, including each commercial mobile service provider, doing business in this state, a certificated telecommunications provider may, beginning June 1, 2005, recover from the provider's customers, an assessment imposed on the provider under this title.

(b) A certificated telecommunications provider may recover only the amount of the assessment imposed and may recover the assessment through a monthly billing process.

CSHB 1779 - POINT OF ORDER

Representative Geren raised a point of order against further consideration of **CSHB 1779** under Rule 4, Section 32(c)(4) of the House Rules on the grounds that there is a substantial difference between the committee substitute and the original bill.

The point of order was withdrawn.

Representative P. King moved to postpone consideration of **CSHB 1779** until 12 p.m. today.

The motion prevailed.

CSHB 2593 ON SECOND READING

(by Baxter)

CSHB 2593, A bill to be entitled An Act relating to the TexasOnline project, the TexasOnline Authority, and related powers and fees.

CSHB 2593 was read second time on May 11 and was postponed until 10 a.m. today.

Representative Baxter moved to postpone consideration of **CSHB 2593** until 3 p.m. today.

The motion prevailed.

HB 3356 ON SECOND READING
(by Nixon)

HB 3356, A bill to be entitled An Act relating to governmental contingent fee contracts for legal services entered into by a local governmental entity.

HB 3356 was read second time on May 5 and was postponed until 10 a.m. today.

Representative Nixon moved to postpone consideration of **HB 3356** until 10 a.m. June 1.

The motion prevailed.

CSHB 879 ON SECOND READING
(by Madden)

CSHB 879, A bill to be entitled An Act relating to the sale of tax receivables by a local government.

CSHB 879 was read second time on May 9, postponed until May 10, postponed until May 11, and was again postponed until 10 a.m. today.

CSHB 879 - POINT OF ORDER

Representative Gallego raised a point of order against further consideration of **CSHB 879** under Rule 4, Sections 18, 20, and 32 of the House Rules on the grounds that the committee report is incorrect.

(P. King in the chair)

The chair sustained the point of order.

The ruling precluded further consideration of **CSHB 879**.

(Crownover now present)

CSHB 3207 ON SECOND READING
(by Zedler and Flynn)

CSHB 3207, A bill to be entitled An Act relating to increasing the penalties for certain criminal offenses involving an election.

CSHB 3207 was read second time on May 11 and was postponed until 10 a.m. today.

CSHB 3207 - POINT OF ORDER

Representative Dunnam raised a point of order against further consideration of **CSHB 3207** under Rule 4, Section 32(c) of the House Rules on the grounds that the bill analysis is incorrect.

MEMORANDUM BY REPRESENTATIVE DUNNAM

The bill analysis contains an incorrect statement regarding the content of the bill.

In the "Comparison of Original to Substitute" section of the bill analysis, it states, "The substitute modifies the original by conforming to Legislative Council drafting style. The substitute also modifies the original by changing the effective

date from on passage to September 1, 2005." This is incorrect. The committee substitute also adds SECTION 4 of to the bill and moves the effective date to SECTION 5. The content of SECTION 4 is substantial, and this change from the original version should have been described in the "Comparison of Original to Substitute" section of the bill analysis.

SECTION 4 of **CSHB 3207** provides for prospective application of the bill. This important difference between the two versions is not noted in the comparison section of the bill analysis. This addition of a whole other SECTION to the bill is not simply conforming to Legislative Council drafting style.

For the foregoing reasons, the point of order should be sustained.

(Speaker in the chair)

BILLS AND RESOLUTIONS SIGNED BY THE SPEAKER

Notice was given at this time that the speaker had signed bills and resolutions in the presence of the house (see the addendum to the daily journal, Signed by the Speaker, Senate List No. 19).

CSHB 3207 - (consideration continued)

The speaker overruled the point of order.

CSHB 3207 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Castro, Chavez, Y. Davis, Farrar, Flores, Giddings, Gonzales, Herrero, Leibowitz, McClendon, Menendez, Rodriguez, Uresti, and Veasey recorded voting no.)

CSHB 3208 ON SECOND READING

(by Zedler and Flynn)

CSHB 3208, A bill to be entitled An Act relating to the investigation of certain criminal conduct in election matters.

CSHB 3208 was read second time on Legislative Day 66 and was postponed until 10 a.m. today.

CSHB 3208 - POINT OF ORDER

Representative Dunnam raised a point of order against further consideration of **CSHB 3208** under Rule 4, Section 32(c)(4) of the House Rules on the grounds that the bill analysis is incorrect.

The speaker overruled the point of order.

MEMORANDUM BY REPRESENTATIVE DUNNAM

The bill analysis contains an incorrect statement regarding the content of the bill.

In the "Comparison of Original to Substitute" section of the bill analysis, it states, "The substitute modifies the original by conforming the language to Legislative Council drafting style."

As filed, Section 2 (c) reads as follows: "On receipt of an affidavit under Section 15.028, the county or district attorney having jurisdiction and, if applicable, the attorney general shall investigate the matter."

CSHB 3208, Section 2 (c) reads: "On receipt of an affidavit under Section 15.028, the county or district attorney having jurisdiction and, if applicable, the attorney general shall promptly investigate the matter."

Representative Zedler stated that the taking out the word "promptly" would have a negative effect because election cases need quick resolution and without "promptly" the attorney general could take an indefinite amount of time to investigate cases.

Clearly the bill analysis is incorrect.

For the foregoing reasons, the point of order should be sustained.

Amendment No. 1

Representative Raymond offered the following amendment to **CSHB 3208**:

Amend **CSHB 3208** as follows:

(1) Strike SECTION 1 of the bill and renumber the remaining SECTIONS as appropriate.

(2) On page 1, line 17, strike "(a), (c), " and substitute "(c)".

(3) Strike page 1, line 19, through page 2, line 4.

(4) On page 2, strike lines 11 through 15 and substitute the following:

(f) Following an investigation, the county or district attorney having jurisdiction shall report any findings of the investigation to the attorney general. The county or district attorney general having jurisdiction shall take, and the attorney general may take, all necessary actions in accordance with this code and other applicable law to prevent criminal conduct in connection with the election.

Representative Zedler moved to table Amendment No. 1.

A record vote was requested.

The motion to table prevailed by (Record 623): 76 Yeas, 60 Nays, 2 Present, not voting.

Yeas — Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Campbell; Casteel; Chisum; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Griggs; Grusendorf; Haggerty; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; Krusee; Kuempel; Laubenberg; Madden; McCall; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Burnam; Callegari; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Guillen; Hamilton; Herrero; Hochberg; Homer; Hopson; Jones, J.; King, T.; Leibowitz; Martinez; Martinez Fischer; McClendon;

McReynolds; Menendez; Merritt; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Solis; Strama; Thompson; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C); Pickett.

Absent, Excused — Deshotel; Hodge.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; Luna; Pitts; Turner.

Absent — Allen, R.; Bailey; Goolsby; Laney.

(Turner now present)

A record vote was requested.

CSHB 3208 was passed to engrossment by (Record 624): 78 Yeas, 58 Nays, 1 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Griggs; Grusendorf; Haggerty; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; Krusee; Kuempel; Laubenberg; Madden; McCall; Merritt; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Reyna; Riddle; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Burnam; Castro; Chavez; Cook, R.; Davis, Y.; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Geren; Gonzales; Gonzalez Toureilles; Goodman; Guillen; Hamilton; Herrero; Hochberg; Homer; Hopson; Jones, J.; King, T.; Leibowitz; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Solis; Strama; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Deshotel; Hodge.

Absent, Excused, Committee Meeting — Gattis; Kolkhorst; Luna; Pitts.

Absent — Bailey; Coleman; Giddings; Goolsby; Laney; Wong.

STATEMENTS OF VOTE

When Record No. 624 was taken, I was in the house but away from my desk. I would have voted no.

Giddings

When Record No. 624 was taken, I was in the house but away from my desk. I would have voted yes.

Wong

(Luna now present)

CSHB 1449 ON SECOND READING
(by Dutton and Goodman)

CSHB 1449, A bill to be entitled An Act relating to suits affecting the parent-child relationship, including proceedings for the establishment, modification, and enforcement of child support; providing a civil penalty.

CSHB 1449 was read second time on Legislative Day 66 and was postponed until 10 a.m. today.

Amendment No. 1

Representative Dutton offered the following amendment to **CSHB 1449**:

Amend **CSHB 1449**, on page 20, between lines 20 and 21, by inserting the following:

(f) In this section, "licensing authority" does not include the State Securities Board.

(Solomons in the chair)

Amendment No. 1 was adopted.

Amendment No. 2

Representative Howard offered the following amendment to **CSHB 1449**:

Amend **CSHB 1449**, on page 2, line 10, by striking "an accredited secondary school" and substituting "a [an accredited] secondary school".

Amendment No. 2 was adopted.

Amendment No. 3

Representative T. Smith offered the following amendment to **CSHB 1449**:

Amend **CSHB 1449** by adding the following appropriately numbered sections and renumbering the sections of the bill accordingly:

SECTION _____. Section 154.125, Family Code, is amended to read as follows:

Sec. 154.125. APPLICATION OF GUIDELINES TO NET RESOURCES OF \$7,500 [~~\$6,000~~] OR LESS. (a) The guidelines for the support of a child in this section are specifically designed to apply to situations in which the obligor's monthly net resources are \$7,500 [~~\$6,000~~] or less.

(b) If the obligor's monthly net resources are \$7,500 [~~\$6,000~~] or less, the court shall presumptively apply the following schedule in rendering the child support order:

CHILD SUPPORT GUIDELINES BASED ON THE MONTHLY NET
RESOURCES OF THE OBLIGOR

1 child

20% of Obligor's Net Resources

2 children	25% of Obligor's Net Resources
3 children	30% of Obligor's Net Resources
4 children	35% of Obligor's Net Resources
5 children	40% of Obligor's Net Resources
6+ children	Not less than the amount for 5 children

SECTION _____. Section 154.126, Family Code, is amended to read as follows:

Sec. 154.126. APPLICATION OF GUIDELINES TO NET RESOURCES OF MORE THAN \$7,500 [~~\$6,000~~] MONTHLY. (a) If the obligor's net resources exceed \$7,500 [~~\$6,000~~] per month, the court shall presumptively apply the percentage guidelines to the first \$7,500 [~~\$6,000~~] of the obligor's net resources. Without further reference to the percentage recommended by these guidelines, the court may order additional amounts of child support as appropriate, depending on the income of the parties and the proven needs of the child.

(b) The proper calculation of a child support order that exceeds the presumptive amount established for the first \$7,500 [~~\$6,000~~] of the obligor's net resources requires that the entire amount of the presumptive award be subtracted from the proven total needs of the child. After the presumptive award is subtracted, the court shall allocate between the parties the responsibility to meet the additional needs of the child according to the circumstances of the parties. However, in no event may the obligor be required to pay more child support than the greater of the presumptive amount or the amount equal to 100 percent of the proven needs of the child.

SECTION _____. Section 154.130(b), Family Code, is amended to read as follows:

(b) If findings are required by this section, the court shall state whether the application of the guidelines would be unjust or inappropriate and shall state the following in the child support order:

"(1) the monthly net resources of the obligor per month are \$ ____;

"(2) the monthly net resources of the obligee per month are \$ ____;

"(3) the percentage applied to the obligor's net resources for child support by the actual order rendered by the court is ____%;

"(4) the amount of child support if the percentage guidelines are applied to the first \$7,500 [~~\$6,000~~] of the obligor's net resources is \$ ____;

"(5) if applicable, the specific reasons that the amount of child support per month ordered by the court varies from the amount stated in Subdivision (4) are: ____; and

"(6) if applicable, the obligor is obligated to support children in more than one household, and:

"(A) the number of children before the court is ____;

"(B) the number of children not before the court residing in the same household with the obligor is ____; and

"(C) the number of children not before the court for whom the obligor is obligated by a court order to pay support, without regard to whether the obligor is delinquent in child support payments, and who are not counted under Paragraph (A) or (B) is ____."

SECTION _____. The changes in law made by this Act by the amendment of Sections 154.125, 154.126, and 154.130, Family Code, apply only to a suit affecting the parent-child relationship that is commenced on or after September 1, 2005. A suit affecting the parent-child relationship commenced before that date is governed by the law in effect on the date the suit was filed, and the former law is continued in effect for that purpose.

Amendment No. 3 was adopted.

CSHB 1449, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 1537 ON SECOND READING
(Callegari - House Sponsor)

SB 1537, A bill to be entitled An Act relating to the administration, powers, duties, and operation of the Harris-Galveston Subsidence District and the Fort Bend Subsidence District.

SB 1537 was considered in lieu of **CSHB 1680**.

SB 1537 was read second time and was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 1680 - LAID ON THE TABLE SUBJECT TO CALL

Representative Callegari moved to lay **CSHB 1680** on the table subject to call.

The motion prevailed.

EMERGENCY CALENDAR
HOUSE BILLS
SECOND READING

The following bills were laid before the house and read second time:

CSHB 2329 ON SECOND READING
(by Morrison)

CSHB 2329, A bill to be entitled An Act relating to authorizing the issuance of revenue bonds or other obligations to fund capital projects at public institutions of higher education.

Representative Morrison moved to postpone consideration of **CSHB 2329** until 12:30 p.m. today.

The motion prevailed.

**MAJOR STATE CALENDAR
HOUSE BILLS
THIRD READING**

The following bills were laid before the house and read third time:

**HB 2330 ON THIRD READING
(by Morrison, Woolley, Branch, Goolsby, Eissler, et al.)**

HB 2330, A bill to be entitled An Act relating to the automatic admission of undergraduate students to general academic teaching institutions.

Amendment No. 1

Representative Morrison offered the following amendment to **HB 2330**:

Amend **HB 2330** (2nd Reading Engrossment) on page 1, lines 13-14, by striking "dual credit course described by Section 28.025(e)(2)(B)" and substituting "course for dual high school and college-level credit".

Amendment No. 1 was adopted.

(Bailey now present)

Amendment No. 2

Representative Turner offered the following amendment to **HB 2330**:

Amend **HB 2330** (2nd Reading Engrossment) by striking page 3 line 8, through page 4, line 12, and substituting the following:

(1) give priority to applicants from racial or ethnic groups or geographic regions of this state that are underrepresented in the institution's student body;

(2) after offering admission to applicants under Subdivision (1), offer admission to remaining applicants beginning with those who completed the curriculum requirements established under Section 28.025 for the advanced high school program or an equivalent curriculum at a high school to which that section does not apply;

(3) after offering admission to applicants under Subdivision (1) and (2), offer admission to the remaining applicants by percentile rank according to graduating class standing based on grade point average, beginning with the top percentile rank, until a sufficient number of applicants have accepted admission offers to fill those spaces reserved by the institution for admission under Subsection (a), except that the institution must offer admission to all applicants with the same percentile rank; and

(4) after offering admission to applicants under Subdivisions (1), (2), and (3), consider any remaining applicants qualified for automatic admission under Subsection (a) in the same manner as other applicants for admission as first-time freshman students in accordance with Section 51.805.

(Gattis now present)

(Speaker in the chair)

MESSAGES FROM THE SENATE

Messages from the senate were received at this time (see the addendum to the daily journal, Messages from the Senate, Message Nos. 1 and 2).

HB 2330 - (consideration continued)

A record vote was requested.

Amendment No. 2 failed of adoption by (Record 625): 65 Yeas, 75 Nays, 1 Present, not voting.

Yeas — Allen, A.; Alonzo; Anchia; Bailey; Burnam; Castro; Chavez; Coleman; Davis, Y.; Dukes; Dunnam; Dutton; Edwards; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Haggerty; Hamilton; Hardcastle; Harper-Brown; Herrero; Hilderbran; Hochberg; Homer; Hopson; Hunter; Jones, D.; Jones, J.; Keffer, J.; King, T.; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Pickett; Puente; Raymond; Ritter; Rodriguez; Solis; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Nays — Allen, R.; Anderson; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Cook, B.; Cook, R.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Goodman; Goolsby; Griggs; Grusendorf; Hamric; Hartnett; Hegar; Hill; Howard; Hughes; Hupp; Isett; Jackson; Keel; Keffer, B.; King, P.; Krusee; Kuempel; Laubenberg; Madden; McCall; Merritt; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Quintanilla; Reyna; Riddle; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Deshotel; Hodge.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Blake; Chisum; Corte; Hope.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 625. I intended to vote no.

Harper-Brown

When Record No. 625 was taken, I was in the house but away from my desk. I would have voted no.

Hope

I was shown voting yes on Record No. 625. I intended to vote no.

Hunter

I was shown voting no on Record No. 625. I intended to vote yes.

Quintanilla

REMARKS ORDERED PRINTED

Representative Thompson moved to print closing remarks on the passage of **HB 2330**.

The motion prevailed.

[Please refer to the supplement to today's journal for the text of the closing remarks on **HB 2330**.]

A record vote was requested.

The vote of the house was taken on passage of **HB 2330** and the vote was announced yeas 74, nays 70.

A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 626): 73 Yeas, 69 Nays, 0 Present, not voting.

Yeas — Mr. Speaker(C); Allen, R.; Anderson; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Flynn; Gattis; Goodman; Goolsby; Griggs; Grusendorf; Hamric; Harper-Brown; Hartnett; Hegar; Hill; Hope; Howard; Hunter; Hupp; Isett; Jackson; Keel; Keffer, B.; King, P.; Krusee; Kuempel; Laubenberg; Madden; McCall; Merritt; Miller; Morrison; Nixon; Orr; Otto; Paxton; Reyna; Riddle; Rose; Seaman; Smith, T.; Smith, W.; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Alonzo; Anchia; Bailey; Blake; Burnam; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Dukes; Dunnam; Dutton; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Haggerty; Hamilton; Hardcastle; Herrero; Hilderbran; Hochberg; Homer; Hopson; Hughes; Jones, D.; Jones, J.; Keffer, J.; King, T.; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, P.; Mowery; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Smithee; Solis; Strama; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Absent, Excused — Deshotel; Hodge.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Allen, A.; Corte; Edwards.

The speaker stated that **HB 2330**, as amended, was passed by the above vote.

STATEMENT OF VOTE

When Record No. 626 was taken, I was temporarily out of the house chamber. I would have voted no.

A. Allen

HB 2876 ON THIRD READING
(by Callegari, Gattis, Hope, Howard, W. Smith, et al.)

HB 2876, A bill to be entitled An Act relating to certificates of public convenience and necessity for water service and sewer service.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 3).

LEAVES OF ABSENCE GRANTED

The following members were granted leaves of absence temporarily for today because of important business:

Corte on motion of Hilderbran.

Edwards on motion of Hamilton.

HB 2876 - (consideration continued)

HB 2876 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today because of important business in the district:

A. Allen on motion of Leibowitz.

HB 1795 ON THIRD READING
(by Crownover, Isett, Taylor, Eissler, Seaman, et al.)

HB 1795, A bill to be entitled An Act relating to the creation of health savings accounts for certain individuals eligible to participate in the insurance coverage provided under the Texas Employees Group Benefits Act and their dependents.

HB 1795 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Farrar, Gallego, Herrero, Leibowitz, Raymond, and Veasey recorded voting no.)

HB 3333 ON THIRD READING
(by Chavez)

HB 3333, A bill to be entitled An Act relating to the sale or transfer of interest of real property to certain federally recognized Indian tribes.

A record vote was requested.

HB 3333 was passed by (Record 627): 135 Yeas, 1 Nays, 1 Present, not voting.

Yeas — Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Driver; Dunnam; Dutton; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Riddle.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Allen, A.; Corte; Deshotel; Edwards; Hodge.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Dukes; Hardcastle; Merritt; Noriega, M.; Rose.

(Chisum in the chair)

HB 3071 ON THIRD READING (by Goodman)

HB 3071, A bill to be entitled An Act relating to the administration and collection of ad valorem taxes; making procedural and technical corrections and clarifications to the Tax Code, Property Code, and Civil Practice and Remedies Code.

Amendment No. 1

Representative Goodman offered the following amendment to **HB 3071**:

Amend **HB 3071** on third reading as follows:

(1) Strike the SECTION of the bill as added by SECTION 6 of Floor Amendment No. 2, by Villarreal.

(2) Strike SECTION 33 of the bill (committee printing, on page 24, line 3), and substitute the following appropriately numbered SECTION:

SECTION __. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 2005.

(b) The following sections of this Act take effect January 1, 2006:

(1) SECTION __, amending Section 6.02(a), Tax Code;

(2) SECTION __, amending Section 41.097 (a), Education Code;

(3) SECTION __, amending Section 41.210(b), Education Code; and

(4) SECTION __, repealing Section 13.007, Education Code, and Sections 6.02(b)-(g), 6.025, and 6.03(m), Tax Code.

(3) Renumber existing SECTIONS appropriately.

Amendment No. 1 was adopted.

HB 3071, as amended, was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Thompson recorded voting present, not voting.)

HB 2030 ON THIRD READING

(by Nixon)

HB 2030, A bill to be entitled An Act relating to defining residency for purposes of eligibility to hold or be a candidate for public office.

HB 2030 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HOCHBERG: Then let me ask you very specifically, and we'll do this for the record. I'm willing to yield to your interpretation, but I want to make sure we're all clear on it.

REPRESENTATIVE NIXON: It is not the intent to provide a trap or a trick that relates, if you register your kids, and you come to Austin during the session, and you put them in school here, that's not what—

HOCHBERG: As long as you've got a homestead on a residence in your district you are okay?

NIXON: Or your permanent residence, some people don't own property and they're able to have an apartment and whatever they're listing as a residence from which they run for office, that's in their district, and that's fine.

HOCHBERG: And you would have confidence that it would be covered if you have a homestead on a residence in your district?

NIXON: That's right.

REMARKS ORDERED PRINTED

Representative Hochberg moved to print remarks between Representative Nixon and Representative Hochberg.

The motion prevailed.

A record vote was requested.

The vote of the house was taken on passage of **HB 2030** and the vote was announced yeas 68, nays 69.

A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 628): 67 Yeas, 70 Nays, 2 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Bonnen; Branch; Brown, B.; Callegari; Campbell; Casteel; Cook, B.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Flynn; Gattis; Grusendorf; Hamilton; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hope; Howard; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; King, P.; Krusee; Laubenberg; Madden; McReynolds; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Reyna; Riddle; Seaman; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Alonzo; Anchia; Bailey; Blake; Bohac; Brown, F.; Burnam; Castro; Chavez; Coleman; Cook, R.; Davis, Y.; Dukes; Dunnam; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Guillen; Haggerty; Hamric; Herrero; Hochberg; Homer; Hopson; Hughes; Jones, J.; King, T.; Kuempel; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Rose; Smith, T.; Solis; Strama; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker; Chisum(C).

Absent, Excused — Allen, A.; Corte; Deshotel; Edwards; Hodge.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Dutton; Elkins; Keffer, J.

The chair stated that **HB 2030** failed to pass by the above vote.

STATEMENT OF VOTE

I was shown voting no on Record No. 628. I intended to vote yes.

McCall

(Corte now present)

HB 2988 ON THIRD READING (by Nixon)

HB 2988, A bill to be entitled An Act relating to waiver of sovereign immunity.

HB 2988 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: McCall recorded voting no.)

HB 2702 ON THIRD READING (by Krusee)

HB 2702, A bill to be entitled An Act relating to the construction, acquisition, financing, maintenance, management, operation, ownership, and control of rail and highway transportation facilities in this state.

Amendment No. 1

Representative Krusee offered the following amendment to **HB 2702**:

Amend **HB 2702** on third reading by adding the following appropriately numbered section to the bill and renumbering the remaining sections of the bill appropriately:

SECTION __. Section 370.163(b), Transportation Code, is repealed.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Uresti offered the following amendment to **HB 2702**:

Amend **HB 2702** on third reading by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Subchapter C, Chapter 284, Transportation Code, is amended by adding Section 284.074 to read as follows:

Sec. 284.074. VETERANS EXEMPT FROM TOLLS. A county may not charge a toll for the operation of a vehicle owned by an honorably discharged veteran of the armed forces of the United States on a facility operated under this chapter.

SECTION __. Subchapter G, Chapter 361, Transportation Code, is amended by adding Section 361.257 to read as follows:

Sec. 361.257. VETERANS EXEMPT FROM TOLLS. The department may not charge a toll for the operation of a vehicle owned by an honorably discharged veteran of the armed forces of the United States on a turnpike project operated under this chapter.

SECTION __. Subchapter E, Chapter 366, Transportation Code, is amended by adding Section 366.186 to read as follows:

Sec. 366.186. VETERANS EXEMPT FROM TOLLS. An authority may not charge a toll for the operation of a vehicle owned by an honorably discharged veteran of the armed forces of the United States on a turnpike project operated under this chapter.

SECTION __. Subchapter E, Chapter 370, Transportation Code, is amended by adding Section 370.193 to read as follows:

Sec. 370.193. VETERANS EXEMPT FROM TOLLS. An authority may not charge a toll for the operation of a vehicle owned by an honorably discharged veteran of the armed forces of the United States on a turnpike project operated under this chapter.

Amendment No. 2 was withdrawn.

Amendment No. 3

Representatives P. King and Bonnen offered the following amendment to **HB 2702**:

Amend **HB 2702** on third reading by adding the following appropriately numbered SECTION and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. (a) The Texas Department of Transportation shall conduct a study to determine how to maximize the use of highway rights-of-way by public utilities. The department shall submit a written report of its findings to the appropriate legislative committees not later than December 31, 2006.

(b) This section expires January 1, 2007.

Amendment No. 3 was adopted.

HB 2702 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HEGAR: Thank you, Chairman Krusee. I have a couple of questions for you. On page nine of the bill, we talked about highway intersections with the Trans-Texas Corridor, and in that there is some language we had worked out as far as—if a corridor goes through an area, we ensure that we have connections for on-and off-ramps to state highways, U.S. highways, different intersections. Yet in the more rural areas, sometimes it gets confusing what roads do we connect to and which roads do we not? In that language we have several conditions—five conditions that would be taken into account to decide what would be significant and major farm-to-market roads, as well as county roads. I just wanted to ensure that when we talk about number one, financial responsibility, if for some reason maybe the economics of it don't seem financial, that doesn't automatically trump the second, third, fourth, and fifth criteria. It's extremely important that we're taking all the criteria, the holistic package, not merely just the first one—trumps two, three, and four.

REPRESENTATIVE KRUSEE: That's exactly right. The cost of accessibility is one factor amongst many, obviously, that would be trumped by safety, which is number four, access for emergency vehicles.

HEGAR: Okay, thank you. Another question following up on that, when we're looking at—as far as what is significant, what is major, and trying to make reasonable efforts, it's not just TxDOT that is looking at these criteria. It is also the input from the local people, whether it's county officials or city officials. In other words, we're taking both considerations of these factors, not merely just a TxDOT look.

KRUSEE: That's exactly right, Mr. Hegar, and that's why the statute requires the commission to solicit input from commissioner court and from municipalities. They're the ones who will determine what is significant and what is not, because they are closest to the people.

HEGAR: Thank you. I have one other question. On the amendment that we had put on yesterday, that deals with the report, that deals with—TxDOT shall make a report seven days prior to the first EIS report to the federal government. And the second one, in that report we talk about TxDOT making sure there is reasonable and necessary modes of transportation. In other words, we look at each single individual mode of transportation, and it simply just provides a report as we go through each, whether it's just automobile lanes for passenger cars, whether it's lanes for 18 wheelers, whether we may happen to have a need for freight rail or high-speed rail, for passenger rail, utility lines, you name it. Each mode of transportation as you understand it, is going to look at each approach. And

TxDOT is going to look at each different—and TxDOT is going to really try to define what is reasonable and necessary, so we don't just have a 1200-foot corridor that's not needed, both in the immediate future and in the future needs.

KRUSEE: That's right. We have to look at the purpose of what we're doing and what is necessary. If it's not necessary to put a railroad in it or transmission lines, then that shouldn't happen. It should not be 1200 feet wide. It might need to be 300 feet wide or 350 feet wide like the first phase of the Tran-Texas Corridor here in Austin, Texas.

HEGAR: That's the reason last night that we decided not to go with specifically a set statutory amount, whether it's 100 feet wide, or 1200 feet wide, or 800 feet wide. Once TxDOT comes back and shows the reasonable necessity of any type of corridor project in each segment, as well as the mode of transportation that will reasonably define the width of the corridor. Is that correct?

KRUSEE: That's exactly right. Need and purpose.

HB 2702, as amended, was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Keel and Riddle recorded voting no.)

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence temporarily for today because of appropriations business:

Turner on motion of Giddings.

REMARKS ORDERED PRINTED

Representative Hegar moved to print remarks between Representative Krusee and Representative Hegar.

The motion prevailed.

HB 2026 ON THIRD READING

(by Hilderbran)

HB 2026, A bill to be entitled An Act relating to the taking and possession of certain wildlife or eggs, including requirements related to taxidermy and tanning and to harmful aquatic plants; imposing a penalty.

Amendment No. 1

Representative Hilderbran offered the following amendment to **HB 2026**:

Amend **HB 2026** on third reading by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Section 822.102(a), Health and Safety Code, is amended to read as follows:

(a) This subchapter does not apply to:

(1) a county, municipality, or agency of the state or an agency of the United States or an agent or official of a county, municipality, or agency acting in an official capacity;

(2) a research facility, as that term is defined by Section 2(e), Animal Welfare Act (7 U.S.C. Section 2132), and its subsequent amendments, that is licensed by the secretary of agriculture of the United States under that Act;

(3) an organization that is an accredited member of the American Zoo and Aquarium Association;

(4) an injured, infirm, orphaned, or abandoned dangerous wild animal while being transported for care or treatment;

(5) an injured, infirm, orphaned, or abandoned dangerous wild animal while being rehabilitated, treated, or cared for by a licensed veterinarian, an incorporated humane society or animal shelter, or a person who holds a rehabilitation permit issued under Subchapter C, Chapter 43, Parks and Wildlife Code;

(6) a dangerous wild animal owned by and in the custody and control of a transient circus company that is not based in this state if:

(A) the animal is used as an integral part of the circus performances; and

(B) the animal is kept within this state only during the time the circus is performing in this state or for a period not to exceed 30 days while the circus is performing outside the United States;

(7) a dangerous wild animal while in the temporary custody or control of a television or motion picture production company during the filming of a television or motion picture production in this state;

(8) a dangerous wild animal owned by and in the possession, custody, or control of a college or university solely as a mascot for the college or university;

(9) a dangerous wild animal while being transported in interstate commerce through the state in compliance with the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments and the regulations adopted under that Act;

(10) a nonhuman primate owned by and in the control and custody of a person whose only business is supplying nonhuman primates directly and exclusively to biomedical research facilities and who holds a Class "A" or Class "B" dealer's license issued by the secretary of agriculture of the United States under the Animal Welfare Act (7 U.S.C. Section 2131 et seq.) and its subsequent amendments; ~~and~~

(11) a dangerous wild animal that is:

(A) owned by or in the possession, control, or custody of a person who is a participant in a species survival plan of the American Zoo and Aquarium Association for that species; and

(B) an integral part of that species survival plan; and

(12) in a county west of the Pecos River that has a population of less than 25,000, a cougar, bobcat, or coyote in the possession, custody, or control of a person that has trapped the cougar, bobcat, or coyote as part of a predator or depredation control activity.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Hilderbran offered the following amendment to **HB 2026**:

Amend **HB 2026** on third reading, on page 4, line 10 through page 7, line 27, by striking SECTION 9 of the second reading engrossment of the bill and renumbering subsequent SECTIONS of the bill accordingly.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Phillips offered the following amendment to **HB 2026**:

Amend **HB 2026** on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Subchapter D, Chapter 12, Parks and Wildlife Code, is amended by adding Section 12.308 to read as follows:

Sec. 12.308. CERTAIN COSTS RECOVERABLE. (a) The actual cost of investigation, reasonable attorney's fees, and reasonable expert witness fees incurred by the department in a civil suit under this subchapter may be recovered in addition to damages for the value of any fish, shellfish, reptile, amphibian, bird, or animal unlawfully killed, caught, taken, possessed, or injured.

(b) Any amounts recovered under this section shall be credited to the same operating accounts from which the expenditures occurred.

SECTION __. Section 103.022, Government Code, is amended to read as follows:

Sec.103.022. MISCELLANEOUS FEES AND COSTS. The following fees and costs shall be paid or collected as follows:

(1) fee for use of an interpreter in civil cases (Sec. 21.051, Civil Practice and Remedies Code) ... \$3;

(2) fee for custodian of a record compelled by a court to produce or certify the record (Sec. 22.004, Civil Practice and Remedies Code) ... \$1;

(3) cost for use of certified copy of the record of names of all trustees appointed by any state organization of a religious congregation in this state (Sec. 126.012, Civil Practice and Remedies Code) ... \$1.50;

(4) filing of a restitution lien (Art. 42.22, Code of Criminal Procedure) ... \$5;

(5) issuance and service of a warrant of arrest for certain offenses if prescribed by the municipality (Art. 45.203, Code of Criminal Procedure) ... not to exceed \$25;

(6) filing a certified copy of a judicial finding of fact and conclusion of law if charged by the secretary of state (Sec. 51.905, Government Code) ... \$15;

(7) costs of determining and sending information concerning the identity of the court with continuing, exclusive jurisdiction if charged by the bureau of vital statistics (Sec. 108.006, Family Code) ... reasonable fee;

(8) initial operations fee paid to domestic relations office on filing of a suit affecting the parent-child relationship, if authorized by the administering entity (Sec. 203.005, Family Code) ... not to exceed \$15;

(9) initial child support service fee paid to domestic relations office in certain counties on filing of a suit affecting the parent-child relationship, if authorized by the administering entity (Sec. 203.005, Family Code) ... not to exceed \$36;

(10) service fee for services of a domestic relations office, if authorized by the administering entity (Sec. 203.005, Family Code) ... not to exceed \$3 per month;

(11) fee from a Title IV-D agency for each item of process to each individual on whom service is required, including service by certified or registered mail (Sec. 231.202, Family Code) ... the amount that a sheriff or constable may charge for serving process under Section 118.131, Local Government Code;

(12) a copy of records of spousal or child support and fees administered in Dallas County if authorized by the local administrative judge (Sec. 152.0634, Human Resources Code) ... not to exceed \$2 per page;

(13) collecting, disbursing, or monitoring spousal or child support payments in Dallas County (Sec. 152.0635, Human Resources Code) ... not to exceed \$3 per month;

(14) fee for adoption, family, and home study investigations in an adoption in Dallas County (Sec. 152.0635, Human Resources Code) ... not to exceed \$250;

(15) certain transactions with respect to a suit for spousal support or a suit affecting the parent-child relationship in Harris County, if authorized by the county commissioners court (Sec. 152.1074, Human Resources Code) ... not to exceed \$2 per transaction;

(16) child support service fee in Nueces County, if authorized by the county commissioners court (Sec. 152.1844, Human Resources Code) ... not to exceed \$5 per month;

(17) services by the offices of the sheriff and constables (Sec. 118.131, Local Government Code) ... amount set by county commissioners court;

(18) cost paid by each surety posting the bail bond for an offense other than a misdemeanor punishable by fine only under Chapter 17, Code of Criminal Procedure, for the felony prosecutor supplement fund and the fair defense account (Sec. 41.258, Government Code) ... \$15, provided the cost does not exceed \$30 for all bail bonds posted at that time for an individual and the cost is not required on the posting of a personal or cash bond;

(19) appraiser's fee as court costs for determining the fair value of ownership interests of owners who have perfected their rights (Sec. 10.365, Business Organizations Code) ... a reasonable fee; ~~and~~

(20) to participate in a court proceeding in this state, a nonresident attorney fee for civil legal services to the indigent (Sec. 82.0361, Government Code) ... \$250 except as waived or reduced under supreme court rules for representing an indigent person; and

(21) costs of investigation, reasonable attorney's fees, and reasonable expert witness fees in a civil suit or a criminal prosecution for recovery of the value of any fish, shellfish, reptile, amphibian, bird, or animal (Sec. 12.308, Parks and Wildlife Code) ... actual costs.

SECTION __. The change in law made by this Act in amending Section 12.308, Parks and Wildlife Code, applies only to a civil suit under Subchapter D, Chapter 12, Parks and Wildlife Code, that commences on or after the effective date of this Act. A civil suit under Subchapter D, Chapter 12, Parks and Wildlife Code, that commences before the effective date of this Act is governed by the law in effect at the time the suit commenced, and that law is continued in effect for that purpose.

Amendment No. 3 was adopted.

A record vote was requested.

HB 2026, as amended, was passed by (Record 629): 134 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Driver; Dukes; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Puente; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker; Chisum(C).

Absent, Excused — Allen, A.; Deshotel; Edwards; Hodge.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts; Turner.

Absent — Coleman; Dunnam; Dutton; Quintanilla; Smithee; Veasey.

STATEMENT OF VOTE

When Record No. 629 was taken, I was in the house but away from my desk. I would have voted yes.

Veasey

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 4).

HB 2233 ON THIRD READING (by J. Keffer)

HB 2233, A bill to be entitled An Act relating to state and certain local fiscal matters.

Amendment No. 1

Representative Pickett offered the following amendment to **HB 2233**:

Amend **HB 2233** on third reading by adding the following appropriately numbered SECTIONS and renumbering subsequent SECTIONS accordingly:

SECTION __. Section 2303.003(8), Government Code, is amended to read as follows:

(8) "Qualified hotel project" means:

(A) a hotel proposed to be constructed by a municipality or a nonprofit municipally sponsored local government corporation created under the Texas Transportation Corporation Act, Chapter 431, Transportation Code, that is within 1,000 feet of a convention center owned by a municipality having a population of 1,500,000 or more, including shops, parking facilities, and any other facilities ancillary to the hotel; and

(B) a hotel proposed to be constructed, remodeled, or rehabilitated by a municipality or a nonprofit municipally sponsored local government corporation created under the Texas Transportation Corporation Act, Chapter 431, Transportation Code, that is within 3,000 feet of the property line of a convention center owned by a municipality having a population of more than 500,000 and that borders the United Mexican States.

SECTION __. Section 2303.5055(b), Government Code, is amended to read as follows:

(b) A municipality with a population of 1,500,000 or more or a municipality having a population of more than 500,000 and that borders the United Mexican States may agree to guarantee from hotel occupancy taxes the bonds or other obligations of a municipally sponsored local government corporation created under the Texas Transportation Corporation Act, Chapter 431, Transportation Code, [~~Article 15281, Vernon's Texas Civil Statutes~~] that were issued or incurred to pay the cost of construction, remodeling, or rehabilitation of a qualified hotel project.

SECTION __. Section 351.001(2), Tax Code, is amended to read as follows:

(2) "Convention center facilities" or "convention center complex" means facilities that are primarily used to host conventions and meetings. The term means civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that are owned by the municipality or other governmental entity or that are managed in whole or part by the municipality. In a municipality with a population of 1.5 million or more, "convention center facilities" or "convention center complex" means civic centers, civic center buildings, auditoriums, exhibition halls, and coliseums that are owned by the municipality or other governmental entity or that are managed in part by the municipality, hotels owned by the municipality or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code, within 1,000 feet of a convention center owned by the municipality, or a historic hotel owned by the municipality or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code, within one mile of a convention center owned by the municipality. The term includes parking areas or facilities that are for the parking or storage of conveyances and that are located at or in the vicinity of other convention center facilities. The term also includes a hotel owned by or located on land that is owned by an eligible central municipality or by a nonprofit corporation acting on behalf of an eligible central municipality and that is located within 1,000 feet of a convention center facility owned by the municipality. The term also includes a hotel proposed to be constructed, remodeled, or rehabilitated by a municipality or a nonprofit municipally sponsored local government corporation created under Chapter 431, Transportation Code, that is within 3,000 feet of the property line of a convention center owned by a municipality having a population of more than 500,000 and that borders the United Mexican States.

SECTION __. Section 351.102(a), Tax Code, is amended to read as follows:

(a) Subject to the limitations provided by this subchapter, a municipality may pledge the revenue derived from the tax imposed under this chapter for the payment of bonds that are issued under Section 1504.002(a), Government Code, for one or more of the purposes provided by Section 351.101 or, in the case of a municipality of 1,500,000 or more or a municipality having a population of more than 500,000 and that borders the United Mexican States, for the payment of principal of or interest on bonds or other obligations of a municipally sponsored local government corporation created under Chapter 431, Transportation Code, that were issued to pay the cost of the acquisition and construction of a convention center hotel or the cost of acquisition, remodeling, or rehabilitation of a historic hotel structure; provided, however, such pledge may only be that portion of the tax collected

Amendment No. 1 was adopted.

Amendment No. 2

Representative Hochberg offered the following amendment to **HB 2233**:

Amend **HB 2233** on 3rd reading by adding the following appropriately numbered section to read as follows and renumbering subsequent sections accordingly:

SECTION __. (a) Section 151.304(b), Tax Code, is amended to read as follows:

(b) In this section, "occasional sale" means:

(1) one or two sales of taxable items, other than an amusement service, at retail during a 12-month period by a person who does not habitually engage, or hold himself out as engaging, in the business of selling taxable items at retail;

(2) the sale of the entire operating assets of a business or of a separate division, branch, or identifiable segment of a business;

(3) a transfer of all or substantially all the property used by a person in the course of an activity if after the transfer the real or ultimate ownership of the property is substantially similar to that which existed before the transfer; ~~or~~

(4) the sale of not more than 10 admissions for amusement services during a 12-month period by a person who does not hold himself out as engaging, or does not habitually engage, in providing amusement services; or

(5) the sale of tangible personal property by an individual if:

(A) the property was originally bought by the individual or a member of the individual's family for the personal use of the individual or the individual's family;

(B) the individual does not hold a permit issued under this chapter and is not required to obtain a permit as a "seller" or "retailer" as those terms are defined by Section 151.008;

(C) the individual does not employ an auctioneer, broker, or factor, other than an online auction, to sell the property; and

(D) the total receipts from sales of the individual's tangible personal property in a calendar year does not exceed \$3,000.

(b) The change in law made by this section does not affect tax liability accruing before the effective date of this section. That liability continues in effect as if this section had not been enacted, and the former law is continued in effect for the collection of taxes due and for civil and criminal enforcement of the liability for those taxes.

(c) This section takes effect July 1, 2005, if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for effect on that date, this section takes effect September 1, 2005.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Menendez offered the following amendment to **HB 2233**:

Amend **HB 2233** on third reading by adding the following appropriately numbered SECTIONS to the bill and renumbering subsequent SECTIONS accordingly:

SECTION __. Section 2303.401, Government Code, is amended to read as follows:

Sec. 2303.401. DEFINITIONS. In this subchapter:

(1) "Certified job" means a new or retained job that:

(A) has provided at least 1,820 hours of employment a year to a qualified employee of a qualified business as described by Section 2303.402;

(B) is intended to exist for at least three years after the date on which the comptroller makes the initial certification of hiring commitments for the qualified business under Section 2303.516(d); and

(C) has been certified by the comptroller as eligible for receipt of a state benefit under this chapter.

(2) "New permanent job" means a new employment position created by a qualified business as described by Section 2303.402 that:

(A) has provided at least 1,820 hours of employment a year to a qualified employee; and

(B) is intended to exist at the qualified business site for at least three years after the date on which a state benefit is received as authorized by this chapter.

(3) ~~(2)~~ "Retained job" means a job that existed with a qualified business before designation of the business's project or activity as an enterprise project that:

(A) has provided employment to a qualified employee of at least 1,820 hours annually; and

(B) is intended to be an employment position for at least three years after the date on which a state benefit is received as authorized by this chapter.

SECTION __. Sections 151.429(b), (c), and (g), Tax Code, are amended to read as follows:

(b) Subject to the limitations provided by Subsection (c) of this section, an enterprise project qualifies for a refund of taxes under this section based on the amount of capital investment made at the qualified business site and refund per job with a maximum refund to be included in a computation of a tax refund for the project. A capital investment at the qualified business site of:

(1) \$40,000 to \$399,999 will result in a refund of up to \$2,500 per job with a maximum refund of \$25,000 for the creation or retention of 10 certified jobs;

(2) \$400,000 to \$999,999 will result in a refund of up to \$2,500 per job with a maximum refund of \$62,500 for the creation or retention of 25 certified jobs;

(3) \$1,000,000 to \$4,999,999 will result in a refund of up to \$2,500 per job with a maximum refund of \$312,500 for the creation or retention of 125 certified jobs;

(4) \$5,000,000 to \$149,999,999 will result in a refund of up to \$2,500 per job with a maximum refund of \$1,250,000 for the creation or retention of 500 certified jobs;

(5) \$150,000,000 to \$249,999,999 will result in a refund of up to \$5,000 per job with a maximum refund of \$2,500,000 for the creation or retention of 500 certified jobs; or

(6) \$250,000,000 or more will result in a refund of up to \$7,500 per job with a maximum refund of \$3,750,000 for the creation or retention of 500 certified jobs.

(c) The total amount of tax refund that an enterprise project may apply for in a state fiscal year may not exceed \$250,000. If an enterprise project qualifies in a state fiscal year for a refund of taxes in an amount in excess of the limitation provided by this subsection, it may apply for a refund of those taxes in a subsequent year, subject to the \$250,000 limitation for each year. The total amount that may be refunded to an enterprise project under this section may not exceed the amount determined by multiplying \$250,000 by the number of state fiscal years during which the enterprise project created or retained one or more certified jobs for qualified employees.

(g) The refund provided by this section is conditioned on the enterprise project maintaining for a three-year period at least the same number [level] of certified jobs [employment of qualified employees] as existed on the date the comptroller initially certified the hiring commitments for the project under Section 2303.516(d), Government Code [at the time it qualified for a refund for a period of three years from that date]. The comptroller shall annually certify whether that number [level] of certified jobs [employment of qualified employees] has been maintained. On certifying that such a number [level] has not been maintained, the comptroller shall assess that portion of the refund attributable to any such decrease in certified jobs [employment], including penalty and interest from the date of the refund.

SECTION __. Section 151.429(e), Tax Code, is amended by adding Subdivision (4-a) to read as follows:

(4-a) "Certified job" has the meaning assigned by Section 2303.401, Government Code.

Amendment No. 3 was adopted.

A record vote was requested.

HB 2233, as amended, was passed by (Record 630): 136 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Driver; Dukes; Dunnam; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hope; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Pickett; Puente; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.;

Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker; Chisum(C).

Absent, Excused — Allen, A.; Deshotel; Edwards; Hodge.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts; Turner.

Absent — Dutton; Phillips; Quintanilla; Raymond.

HR 1642 - ADOPTED

(by Vo)

Representative Vo moved to suspend all necessary rules to take up and consider at this time **HR 1642**.

The motion prevailed.

The following resolution was laid before the house:

HR 1642, Honoring the Alief Super Neighborhood Council for its contributions to the West Houston community.

HR 1642 was adopted.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Ritter requested permission for the Committee on Economic Development to meet while the house is in session at 4 p.m. today, in 3W.9, to consider **SB 771, SB 788, SB 831, SB 920, SB 998, SB 1408, and SB 1815**.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Economic Development, 4 p.m. today, 3W.9, for a formal meeting, to consider **SB 771, SB 788, SB 831, SB 998, SB 920, SB 1408, and SB 1815**.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

CSHB 2593 ON SECOND READING

(by Baxter)

CSHB 2593, A bill to be entitled An Act relating to the TexasOnline project, the TexasOnline Authority, and related powers and fees.

CSHB 2593 was read second time on May 11, postponed until 10 a.m. today, and was again postponed until this time.

Amendment No. 1

Representatives F. Brown, Pickett, and Solomons offered the following amendment to **CSHB 2593**:

Amend **CSHB 2593** by adding an appropriately numbered section to read as follows:

SECTION _____. Section 2054.260, Government Code, is amended to read as follows:

Sec. 2054.260. REPORTING REQUIREMENTS: AUTHORITY. (a) Not later than September 1 of each even-numbered year, the authority shall report on the status, progress, benefits, and efficiency gains of the project. The authority shall provide the report to:

- (1) the presiding officer of each house of the legislature;
- (2) the chair of each committee in the legislature that has primary jurisdiction over the department;
- (3) the governor; and
- (4) each state agency or local government participating in the project.

(b) Not later than September 1 of each even-numbered year, the [As required by the department, the] authority shall report on [to the department regarding] financial matters, including project costs and revenues. In addition, the

[(c) The] authority shall report [to the department] on any significant issues regarding contract performance on the project. The authority shall report on additional financial or contract performance matters as required by the department. The authority shall provide the report to:

- (1) the department;
- (2) the presiding officer of each house of the legislature; and
- (3) the chair of each committee in the legislature that has primary jurisdiction over the department.

Amendment No. 1 was adopted.

Amendment No. 2

Representatives F. Brown, Pickett, and Solomons offered the following amendment to **CSHB 2593**:

Amend **CSHB 2593** by adding the following appropriately numbered section as follows and renumbering the sections of the bill accordingly:

SECTION _____. Subchapter I, Chapter 2054, Government Code, is amended by adding Section 2054.272 to read as follows:

Sec. 2054.272. INDEPENDENT ANNUAL AUDIT. (a) Not later than August 1 of each year, the authority shall have an audit of the authority's finances performed by an independent certified public accountant.

(b) Not later than August 15 of each year, the authority shall provide a copy of the audit report to:

- (1) the presiding officer of each house of the legislature; and
- (2) the chair of each committee in the legislature that has primary jurisdiction over the department.

(c) The authority shall keep a copy of the audit report and make the audit report available for inspection by any interested person during regular business hours.

Amendment No. 2 was adopted.

Amendment No. 3

Representative F. Brown offered the following amendment to **CSHB 2593**:

Amend **CSHB 2593** on page 2, line 12, by striking "by any method [electronically]" and substituting "electronically".

Amendment No. 3 was adopted.

Amendment No. 4

Representative F. Brown offered the following amendment to **CSHB 2593**:

Amend **CSHB 2593** as follows:

(1) On page 5, line 15, strike "Section 2054.2591" and substitute "Sections 2054.2591 and 2054.2595".

(2) After page 5, insert:

Sec. 2054.2595. FEE EXEMPTIONS. The authority may not charge the State Board of Barber Examiners or the Texas Cosmetology Commission a fee to use the project for the issuance or renewal of an occupational license.

Amendment No. 4 was adopted.

CSHB 2593, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

(Deshotel now present)

**MAJOR STATE CALENDAR
HOUSE BILLS
SECOND READING**

The following bills were laid before the house and read second time:

CSHB 1212 ON SECOND READING

(by P. King, Bonnen, Swinford, R. Allen, Escobar, et al.)

CSHB 1212, A bill to be entitled An Act relating to abortion and parental consent to an abortion; providing penalties.

(Speaker in the chair)

CSHB 1212 - LAID ON THE TABLE SUBJECT TO CALL

Representative P. King moved to lay **CSHB 1212** on the table subject to call.

The motion prevailed.

CSHB 2221 ON SECOND READING

(by Luna, Morrison, Turner, and Callegari)

CSHB 2221, A bill to be entitled An Act relating to the territory of a public junior college district and to the provision of services by a junior college district to students residing outside the district.

CSHB 2221 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE SOLIS: I just want to clarify for purposes of intent. On page 4, line 6, this legislation does not affect a campus of the Texas State Technical College system that is located within the county and outside the junior college district, is that correct?

REPRESENTATIVE LUNA: That's correct.

SOLIS: In fact, for the sake of explaining what that is: If Cameron County has a junior college district, a community college district, it only impacts that district right now and does not impact the area that is not inclusive in that district?

LUNA: Right, as you know, service areas are set out by state statutes, nothing in this bill changes that. The only territory that could ever potentially be affected by this bill would be a territory that is within a designated service area of one of the community colleges.

SOLIS: And service area and taxing area are considered the same or synonymous?

LUNA: No. In some cases they are. There are 50 community colleges in the State of Texas. Some of them have the same—their territory for their tax district is the same as their service area. But in most instances they are different. The service area is typically larger, the tax district is smaller.

SOLIS: In addition to that, under this page 4 that I just cited, it would go a step further but not include that service area. Maybe a TST campus may be in a service area but not part of the taxing service district. So therefore it's excluded from this bill. So they're going to be excluded from being able to be taxed at a future date. Is that correct?

LUNA: Yes. Here where it's makes reference to the junior college district, it's speaking to the tax district.

REMARKS ORDERED PRINTED

Representative Solis moved to print remarks between Representative Luna and Representative Solis.

The motion prevailed.

Amendment No. 1

Representative Luna offered the following amendment to **CSHB 2221**:

Amend **CSHB 2221** as follows:

(1) On page 2, lines 24-25, strike "in an area outside the district".

(2) On page 4, lines 2-8, strike the text and substitute the following:

(d) A junior college district may not annex territory under this section if[=

~~[(1) the territory is located in the same county as any part of the junior college district; and~~

~~[(2)] a campus of the Texas State Technical College System is located;~~

- (1) within the county in which the territory is located; and
- (2) outside the junior college district.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Callegari offered the following amendment to **CSHB 2221**:

Amend **CSHB 2221** as follows:

- (1) On page 5, line 13, between "plan" and "must", insert "is informational only and".
- (2) On page 6, line 7, strike "60" and substitute "45".
- (3) On page 7, strike lines 12-15.

Amendment No. 2 was adopted.

(Keel in the chair)

Amendment No. 3

Representative Baxter offered the following amendment to **CSHB 2221**:

Amend **CSHB 2221** as follows:

- (1) On page 8, line 14, strike "AUTOMATIC ANNEXATION OF CERTAIN TERRITORY" and substitute "ELECTION TO ANNEX CERTAIN TERRITORY FOLLOWING ANNEXATION BY MUNICIPALITY OR SCHOOL DISTRICT".
- (2) On page 8, line 17, strike "by order may annex" and substitute "may order an election on the question of annexing".
- (3) On page 8, line 19, following "district", insert ". Except as otherwise provided by this section, Section 130.065 applies to an action taken under this section".

(Turner now present)

Representative Luna moved to table Amendment No. 3.

The motion to table was lost.

A record vote was requested.

The vote of the house was taken on the adoption of Amendment No. 3 and the vote was announced yeas 72, nays 70.

A verification of the vote was requested and was granted.

The roll of those voting yea and nay was again called and the verified vote resulted, as follows (Record 631): 66 Yeas, 75 Nays, 2 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Bohac; Bonnen; Branch; Brown, B.; Campbell; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Denny; Dutton; Eissler; Elkins; Flynn; Gattis; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hartnett; Hegar; Hilderbran; Howard; Hupp; Isett; Jackson; Jones, D.; Keffer, B.; Krusee; Kuempel; Laubenberg; Leibowitz; Madden;

McCall; Miller; Mowery; Nixon; Orr; Otto; Paxton; Reyna; Rose; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Truitt; Uresti; Van Arsdale; Vo; West; Wong; Woolley; Zedler.

Nays — Alonzo; Anchia; Bailey; Blake; Brown, F.; Burnam; Callegari; Casteel; Castro; Chavez; Chisum; Coleman; Davis, Y.; Dawson; Delisi; Deshotel; Driver; Dukes; Dunnam; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goolsby; Guillen; Hardcastle; Harper-Brown; Herrero; Hill; Hochberg; Homer; Hope; Hopson; Hughes; Hunter; Jones, J.; Keffer, J.; King, P.; King, T.; Laney; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Moreno, P.; Morrison; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Riddle; Ritter; Rodriguez; Seaman; Smith, T.; Thompson; Turner; Veasey; Villarreal.

Present, not voting — Mr. Speaker; Keel(C).

Absent, Excused — Allen, A.; Edwards; Hodge.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Goodman.

The chair stated that Amendment No. 3 failed of adoption by the above vote.

Amendment No. 4

Representative Gattis offered the following amendment to **CSHB 2221**:

Amend **CSHB 2221** by inserting the following appropriately numbered section to the bill and renumbering the remaining sections of the bill appropriately:

SECTION ____. Subchapter D, Chapter 130, Education Code, is amended by adding Section 130.0705 to read as follows:

Sec. 130.0705. DISANNEXATION OF CERTAIN TERRITORY. (a) Territory of a junior college district that was annexed to the junior college district at an election held on or after January 1, 2005, at which less than a majority of the registered voters in the territory who voted in the annexation election voted for the annexation may be disannexed from the junior college district as provided by this section unless the district has outstanding bonded indebtedness that was incurred after the annexation of the territory. The territory to be disannexed must include the entire territory annexed at the election.

(b) On presentation to the governing board of the junior college district of a petition proposing the disannexation of territory to the district, the governing board shall call an election on the question of disannexation. The petition must:

(1) contain an accurate description of the territory proposed for disannexation; and

(2) be signed by 50 registered voters in the territory proposed to be disannexed or by a majority of the registered voters in that territory as of the most recent general election for state and county officers, whichever number is less.

(c) The governing board shall order the election to be held in the territory proposed for disannexation on the first authorized uniform election date that is not less than 45 days after the date of the order and that affords enough time to hold the election in the manner provided by law. The board shall give notice of the election in the manner provided by law for notice by the county judge of a general election.

(d) The governing board shall conduct the election in accordance with the Election Code.

(e) The election shall be held only in the territory proposed for disannexation, and only those registered voters residing in that territory are permitted to vote.

(f) The ballot shall be printed to provide for voting for or against the proposition: "Disannexation of the following territory: _____", with the blank filled in with a description of the territory proposed for disannexation, "from the _____ District", with the blank filled in with the name of the junior college district.

(g) The proposition is adopted if the proposition receives a favorable vote of a majority of those voters voting on the proposition.

(h) If the proposition is adopted, the governing board of the district shall enter an order declaring the result of the election and that the territory is disannexed from the junior college district on the date specified in the order.

(i) After a vote to disannex territory from a district, the governing board of the district shall continue to control and administer the property and other assets of the district located within the disannexed territory until all assets have been disposed of.

(j) The governing board of the district may not dispose of the district's assets located within the disannexed territory except for appropriate consideration unless the debts are transferred to another governmental entity or agency within or embracing the district and the transfer will benefit the district's citizens.

(k) The disannexation does not affect the authority of the district to enforce payment of taxes imposed by the district in the disannexed territory before the disannexation.

(l) An election to create a new junior college district or join an existing junior college district may not be held within the disannexed territory before the first anniversary of the date of disannexation.

Amendment No. 4 - Point of Order

Representative Dukes raised a point of order against further consideration of Amendment No. 4 under Rule 11, Section 3 of the House Rules on the grounds that it changes the original purpose of the bill.

The chair sustained the point of order.

The ruling precluded further consideration of Amendment No. 4.

Amendment No. 5

Representative Alonzo offered the following amendment to **CSHB 2221**:

Amend **CSHB 2221** by adding the following appropriately numbered sections to the bill and renumbering the remaining sections of the bill appropriately:

SECTION _____. Subchapter E, Chapter 130, Education Code, is amended by adding Section 130.0811 to read as follows:

Sec. 130.0811. ELECTION FROM SINGLE-MEMBER DISTRICTS. Notwithstanding any other provision of this chapter, members of the governing board of a junior college district must be elected from single-member districts.

SECTION _____. Section 130.0811, Education Code, as added by this Act applies to each junior college district beginning with the first election of trustees that occurs on or after January 1, 2006. Members of the governing board of a junior college district shall be elected from single-member districts as required by Section 130.0811, Education Code, as added by this Act as the terms of the members elected before January 1, 2006, expire. This section does not affect the term of a member serving on the governing board of a junior college district on January 1, 2006.

Representative Luna moved to table Amendment No. 5.

A record vote was requested.

The motion to table prevailed by (Record 632): 90 Yeas, 44 Nays, 2 Present, not voting.

Yeas — Allen, R.; Anderson; Berman; Blake; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Eiland; Eissler; Elkins; Farabee; Flores; Flynn; Frost; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Haggerty; Hamric; Hardcastle; Harper-Brown; Hartnett; Herrero; Hilderbran; Hill; Hochberg; Homer; Hopson; Hunter; Hupp; Isett; Keffer, J.; King, P.; Krusee; Kuempel; Laney; Laubenberg; Madden; Martinez; McCall; McClendon; McReynolds; Merritt; Miller; Morrison; Nixon; Oliveira; Orr; Otto; Paxton; Pickett; Reyna; Riddle; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Alonzo; Anchia; Bailey; Baxter; Bohac; Burnam; Castro; Chavez; Coleman; Davis, Y.; Dunnam; Dutton; Escobar; Farrar; Gallego; Gattis; Geren; Hamilton; Hegar; Hope; Hughes; Jones, J.; Keffer, B.; Leibowitz; Luna; Martinez Fischer; Menendez; Moreno, P.; Mowery; Naishtat; Noriega, M.; Olivo; Peña; Phillips; Puente; Quintanilla; Raymond; Rodriguez; Solis; Strama; Turner; Uresti; Van Arsdale; Veasey.

Present, not voting — Mr. Speaker; Keel(C).

Absent, Excused — Allen, A.; Edwards; Hodge.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Davis, J.; Guillen; Howard; Jackson; Jones, D.; King, T.; Ritter; Thompson.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 632. I intended to vote no.

Gonzalez Toureilles

When Record No. 632 was taken, my vote failed to register. I would have voted no.

Guillen

I was shown voting yes on Record No. 632. I intended to vote no.

Herrero

CSHB 2221, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Howard recorded voting no.)

(Krusee in the chair)

COMMITTEE GRANTED PERMISSION TO MEET

Representative Keel requested permission for the Committee on Criminal Jurisprudence to meet while the house is in session at 4:30 p.m. today, in 3W.9, for a formal meeting, to consider pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Criminal Jurisprudence, 4:30 p.m. today, 3W.9, for a formal meeting, to consider pending business.

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

CSHB 1779 ON SECOND READING

(by P. King)

CSHB 1779, A bill to be entitled An Act relating to the continuation, administration, and operations of the Public Utility Commission of Texas and the Office of Public Utility Counsel.

CSHB 1779 was read second time on May 5, postponed until May 11, postponed until 10 a.m. today, amendments were laid out, and was again postponed until this time.

Amendment No. 2 was adopted.

Amendment No. 3

Representative P. King offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by P. King to **CSHB 1779** by adding the following item to the amendment:

() Amend **CSHB 1779** by striking SECTIONS 20-32, 49, and 59 of the bill and renumbering SECTIONS accordingly.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Turner offered the following amendment to Amendment No. 1:

Amend Floor Amendment No. 1 by King to **CSHB 1779** as follows:

1. On page 1, strike lines 7-9 and substitute the following language: "On page 30, line 14 strike "not".

(Speaker in the chair)

Amendment No. 4 was withdrawn.

Amendment No. 5

Representative Solomons offered the following amendment to Amendment No. 1:

Amend the Phil King amendment to **CSHB 1779** as follows:

(1) On page 1, line 5, strike "\$15,000" and substitute "\$25,000".

(2) On page 1 line 9, strike "wilfully and".

Amendment No. 5 was adopted.

Amendment No. 6

Representative Puente offered the following amendment to Amendment No. 1:

Amend Amendment No. 1 by King on page 24, between lines 9 and 10, by inserting the following:

Sec. 68.402. CERTAIN PUBLIC IMPROVEMENT PROJECTS BY MUNICIPALLY OWNED UTILITY. (a) Except as provided by Subsection (b), money that a municipally owned utility has set aside to pay the costs of a public improvement project that consists of burying the facilities of the utility shall first be used for that purpose.

(b) If the municipality or municipally owned utility is required to reimburse a communications network provider for the relocation of a communications facility under Section 68.101, the municipality or municipally owned utility may use the money described by Subsection (a) to pay all or part of the cost of that reimbursement.

Amendment No. 6 was adopted.

Amendment No. 1, as amended, was adopted.

Amendment No. 7

Representative P. King offered the following amendment to **CSHB 1779**:

Amend **CSHB 1779** by striking SECTIONS 9 and 56 of the bill and renumbering subsequent SECTIONS of the bill as appropriate.

Amendment No. 7 was adopted.

Amendment No. 8

Representative Turner offered the following amendment to **CSHB 1779**:

CSHB 1779 is amended as follows:

1. On page 6, lines 9-10, strike: "but not more than 15 percent" and on page 6, line 22, strike "five percent or more but not more than 15 percent of".

Amendment No. 8 was adopted.

Amendment No. 9

Representative Merritt offered the following amendment to **CSHB 1779**:

Amend **CSHB 1779** on page 8, line 17, by striking "contested proceeding" and substituting "hearing".

Amendment No. 9 was withdrawn.

Amendment No. 10

Representative Solomons offered the following amendment to **CSHB 1779**:

Amend **CSHB 1779** on page 19, between lines 15 and 16, add a new Section 13.005 to read as follows and renumber subsequent sections accordingly:

Sec. 13.005. COMPLAINTS. (a) The office shall maintain a system to promptly and efficiently act on complaints filed with the office that the office has the authority to resolve. The office shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.

(b) The office shall make information available describing its procedures for complaint investigation and resolution.

(c) The office shall periodically notify the complaint parties of the status of the complaint until final disposition.

Amendment No. 10 was adopted.

Amendment No. 11

Representative Solomons offered the following amendment to **CSHB 1779**:

Amend **CSHB 1779** as follows:

(1) On page 30, strike lines 8 through 15 and substitute the following:

"(b) The penalty for a violation may be in an amount not to exceed \$25,000 [~~\$5,000~~]. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty."

Amendment No. 11 was withdrawn.

Amendment No. 10 - Vote Reconsidered

Representative Solomons moved to reconsider the vote by which Amendment No. 10 was adopted.

The motion to reconsider prevailed.

Amendment No. 10 was withdrawn.

Amendment No. 12

Representative Solomons offered the following amendment to **CSHB 1779**:

Amend **CSHB 1779** on page 31 by striking lines 16 through 21.

(Krusee in the chair)

Amendment No. 12 was adopted.

Amendment No. 13

Representative Solomons offered the following amendment to **CSHB 1779**:

Amend **CSHB 1779** by adding the following new SECTIONS and renumber accordingly:

SECTION _____. Section 39.151, Utilities Code, is amended by amending Subsections (b) through (e), (g), and (h) and adding Subsections (d-1) and (g-1) to read as follows:

(b) "Independent organization" means an independent system operator or other person that is sufficiently independent of any producer or seller of electricity that its decisions will not be unduly influenced by any producer or seller. ~~[An entity will be deemed to be independent if it is governed by a board that has three representatives from each segment of the electric market, with the consumer segment being represented by one residential customer, one commercial customer, and one industrial retail customer.]~~

(c) The commission shall certify an independent organization or organizations to perform the functions prescribed by this section. The commission shall apply the provisions of this section and Sections 39.1511, 39.1512, and 39.1515 so as to avoid conflict with a ruling of a federal regulatory body.

(d) The commission shall adopt and enforce rules ~~[An independent organization certified by the commission for a power region shall establish and enforce procedures, consistent with this title and the commission's rules,]~~ relating to the reliability of the regional electrical network and accounting for the production and delivery of electricity among generators and all other market participants, or may delegate to an independent organization responsibilities for establishing or enforcing such rules. Any such rules adopted by an independent organization and any enforcement actions taken by the organization are ~~[- The procedures shall be]~~ subject to commission oversight and review. An independent organization certified by the commission is directly responsible and accountable to the commission. The commission has complete authority to oversee and investigate the organization's finances, budget, and operations as necessary to ensure the organization's accountability and to ensure that the organization adequately performs the organization's functions and duties. The organization shall fully cooperate with the commission in the commission's oversight and investigatory functions. The commission may take appropriate action against an organization that does not adequately perform the organization's functions or

duties or does not comply with this section, including decertifying the organization or assessing an administrative penalty against the organization. The commission by rule shall adopt procedures governing decertification of an independent organization, selecting and certifying a successor organization, and transferring assets to the successor organization to ensure continuity of operations in the region. The commission may not implement, by order or by rule, a requirement that is contrary to an applicable federal law or rule.

(d-1) The commission may:

(1) require an independent organization to provide reports and information relating to the independent organization's performance of the functions prescribed by this section and relating to the organization's revenues, expenses, and other financial matters;

(2) prescribe a system of accounts for an independent organization;

(3) conduct audits of an independent organization's performance of the functions prescribed by this section or relating to its revenues, expenses, and other financial matters and may require an independent organization to conduct such an audit;

(4) inspect an independent organization's facilities, records, and accounts during reasonable hours and after reasonable notice to the independent organization;

(5) assess administrative penalties against an independent organization that violates this title or a rule or order adopted by the commission and, at the request of the commission, the attorney general may apply for a court order to require an independent organization to comply with commission rules and orders in the manner provided by Chapter 15; and

(6) resolve disputes between an affected person and an independent organization and adopt procedures for the efficient resolution of such disputes.

(e) The commission may authorize an independent organization that is certified under this section to charge a reasonable and competitively neutral rate to wholesale buyers and sellers to cover the independent organization's costs. The commission shall investigate the organization's cost efficiencies, salaries and benefits, and use of debt financing and may require the organization to provide any information needed to effectively evaluate the organization's budget and the reasonableness and neutrality of a rate or proposed rate or to evaluate the effectiveness or efficiency of the organization. The commission shall work with the organization to establish the detail of information, both current and historical, and the time frames the commission needs to effectively evaluate a rate or a rate request.

(g) To maintain certification as an independent organization under this section, an organization's [If it amends its governance rules to provide that its governing body is composed as prescribed by this subsection, the existing independent system operator in ERCOT will meet the criteria provided by Subsection (a) with respect to ensuring access to the transmission systems for all buyers and sellers of electricity in the ERCOT region and ensuring the reliability of the regional electrical network. To comply with this subsection, the] governing body must be composed of persons specified by this section and selected in

accordance with formal bylaws or protocols of the organization. The bylaws or protocols must be approved by the commission and must reflect the input of the commission. The bylaws must specify the process by which appropriate stakeholders elect members and, for unaffiliated members, prescribe professional qualifications for selection as a member. The bylaws must require the use of a professional search firm to identify candidates for membership of unaffiliated members. The process must allow for commission input in identifying candidates. The governing body must be composed of:

- (1) the chairman of the commission as an ex officio nonvoting member;
- (2) the counsellor as an ex officio voting member representing residential and small commercial consumer interests;
- (3) the chief executive officer [~~director~~] of the independent organization [~~system operator~~] as an ex officio voting member;
- (4) six market participants elected by their respective market segments to serve one-year terms, with:

(A) one representing independent generators;

(B) one representing investor-owned utilities;

(C) one representing power marketers;

(D) one representing retail electric providers;

(E) one representing municipally owned utilities; and

(F) one representing electric cooperatives [~~four representatives of the power generation sector as voting members~~];

(5) one member representing industrial consumer interests and elected by the industrial consumer market segment to serve a one-year term [~~four representatives of the transmission and distribution sector as voting members~~];

(6) one member representing large commercial consumer interests selected in accordance with the bylaws to serve a one-year term [~~four representatives of the power sales sector as voting members~~]; and

(7) five members unaffiliated with any market segment and selected by the other members of the governing body to serve three-year terms [~~the following people as voting members, appointed by the commission:~~

~~[(A) one representative of residential customers;~~

~~[(B) one representative of commercial customers; and~~

~~[(C) one representative of industrial customers].~~

~~[The four representatives specified in each of Subdivisions (4), (5), and (6) shall be selected in a manner that ensures equitable representation for the various sectors of industry participants.]~~

(g-1) The presiding officer of the governing body must be one of the members described by Subsection (g)(7).

(h) The ERCOT independent system operator may meet the criteria relating to the other functions of an independent organization provided by Subsection (a) by adopting procedures and acquiring resources needed to carry out those functions, consistent with any rules or orders of the commission.

SECTION _____. Subchapter D, Chapter 39, Utilities Code, is amended by adding Sections 39.1511 and 39.1512, to read as follows:

Sec. 39.1511. PUBLIC MEETINGS OF THE GOVERNING BODY OF AN INDEPENDENT ORGANIZATION. (a) Meetings of the governing body of an independent organization certified under Section 39.151 and meetings of a subcommittee that includes a member of the governing body must be open to the public. The bylaws of the independent organization and the rules of the commission may provide for the governing body or subcommittee to enter into executive session closed to the public to address sensitive matters such as confidential personnel information, contracts, lawsuits, competitively sensitive information, or other information related to the security of the regional electrical network.

(b) The bylaws of the independent organization and rules of the commission must ensure that a person interested in the activities of the independent organization has an opportunity to obtain at least seven days' advance notice of meetings and the planned agendas of the meetings and an opportunity to comment on matters under discussion at the meetings. The bylaws and commission rules governing meetings of the governing body may provide for a shorter period of advance notice and for meetings by teleconference technology for governing body meetings to take action on urgent matters. The bylaws and rules must require actions taken on short notice or at teleconference meetings to be ratified at the governing body's next regular meeting. The notice requirements may be met by a timely electronic posting on the Internet.

Sec. 39.1512. DISCLOSURE OF INTEREST IN MATTER BEFORE INDEPENDENT ORGANIZATION'S GOVERNING BODY; PARTICIPATION IN DECISION. (a) If a matter comes before the governing body of an independent organization certified under Section 39.151 and a member has a direct interest in that matter or is employed by or has a substantial financial interest in a person who has a direct interest in that matter, that member shall publicly disclose the fact of that interest to the governing body at a public meeting of the body. The member shall refuse himself or herself from the governing body's deliberations and actions on the matter and may not vote on the matter or otherwise participate in a governing body decision on the matter.

(b) A disclosure made under Subsection (a) shall be entered in the minutes of the meeting at which the disclosure is made.

(c) The fact that a member is recused from a vote or decision by application of this section does not affect the existence of a quorum.

SECTION _____. An independent organization certified by the Public Utility Commission of Texas before September 1, 2005, shall modify the organization's governing body to comply with Subsection (g), Section 39.151, Utilities Code, as amended by this Act, not later than September 1, 2006. On or after September 1, 2006, the Public Utility Commission of Texas may decertify an independent organization whose governing body does not comply with Subsection (g), Section 39.151, Utilities Code, as amended by this Act.

(Speaker in the chair)

Amendment No. 13 was adopted.

Amendment No. 14

Representative Solomons offered the following amendment to **CSHB 1779**:

Amend **CSHB 1779** by adding a new SECTION to read as follows:

SECTION __. Subchapter D, Chapter 39, Utilities Code, is amended by adding Section 39.1515 to read as follows:

Sec. 39.1515. WHOLESALE ELECTRIC MARKET MONITOR. (a) An independent organization certified under Section 39.151 shall contract with an entity selected by the commission to act as the commission's wholesale electric market monitor to detect and prevent market manipulation strategies and recommend measures to enhance the efficiency of the wholesale market.

(b) The independent organization shall provide to the personnel of the market monitor:

(1) full access to the organization's main operations center and the organization's records that concern operations, settlement, and reliability; and

(2) other support and cooperation the commission determines is necessary for the market monitor to perform the market monitor's functions.

(c) The independent organization shall use money from the rate authorized by Section 39.151(e) to pay for the market monitor's activities.

(d) The commission is responsible for ensuring that the market monitor has the resources, expertise, and authority necessary to monitor the wholesale electric market effectively and shall adopt rules and perform oversight of the market monitor as necessary. The market monitor shall operate under the supervision and oversight of the commission. The commission shall retain all enforcement authority conferred under this title, and this section may not be construed to confer enforcement authority on the market monitor or to authorize the commission to delegate the commission's enforcement authority to the market monitor. The commission by rule shall define:

(1) the market monitor's monitoring responsibilities, including reporting obligations and limitations;

(2) the standards for funding the market monitor, including staffing requirements;

(3) qualifications for personnel of the market monitor; and

(4) ethical standards for the market monitor and the personnel of the market monitor.

(e) In adopting rules governing the standards for funding the market monitor, the commission shall consult with a subcommittee of the independent organization's governing body to receive information on how money is or should be spent for monitoring functions. Rules governing ethical standards must include provisions designed to ensure that the personnel of the market monitor are professionally and financially independent from market participants. The commission shall develop and implement policies that clearly separate the policy making responsibilities of the commission and the monitoring, analysis, and reporting responsibilities of the market monitor.

(f) The market monitor immediately shall report directly to the commission any potential market manipulations and any discovered or potential violations of commission rules or rules of the independent organization.

(g) The personnel of the market monitor may communicate with commission staff on any matter without restriction.

(h) The market monitor annually shall submit to the commission and the independent organization a report that identifies market design flaws and recommends methods to correct the flaws. The commission and the independent organization shall review the report and evaluate whether changes to rules of the commission or the independent organization should be made.

Amendment No. 14 was adopted.

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 5).

CSHB 1779 - (consideration continued)

Amendment No. 15

Representatives Menendez and B. Cook offered the following amendment to **CSHB 1779**:

Amend **CSHB 1779** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION __. Sections 545.424, Transportation Code, is amended by amending Subsections (a) and (b) and adding Subsection (f) to read as follows:

(a) A person under 18 years of age, during the six-month period following issuance of an original Class A, B, or C driver's license to the person, may not operate a motor vehicle:

(1) after midnight and before 5 a.m. unless the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency; ~~(b)~~

(2) with more than one passenger in the vehicle under 21 years of age who is not a family member; or

(3) while using a wireless communications device.

(b) A person under 17 years of age who holds a restricted motorcycle license or moped license, during the six-month period following the issuance of an original motorcycle license or moped license to the person, may not operate a motorcycle or moped:

(1) after midnight and before 5 a.m. unless:

(A) ~~(1)~~ the person is in sight of the person's parent or guardian; or

(B) ~~(2)~~ the operation of the vehicle is necessary for the operator to attend or participate in employment or a school-related activity or because of a medical emergency; or

(2) while using a wireless communications device.

(f) The Public Utility Commission of Texas has jurisdiction to adopt, and shall adopt, rules defining "wireless communications device" for the purposes of this section.

Amendment No. 16

Representatives Menendez and B. Cook offered the following amendment to Amendment No. 15:

Amend the Menendez amendment to **CSHB 1779** on page 2, line 2, by striking "adopt, and" and substituting "adopt, consistent with federal law, and".

Amendment No. 16 was adopted.

Amendment No. 15, as amended, was adopted.

Amendment No. 17

Representative Hartnett offered the following amendment to **CSHB 1779**:

Amend **CSHB 1779** by adding a new section to the bill, numbered appropriately, to read as follows and renumbering subsequent sections accordingly:

SECTION _____. Before implementing a new wholesale transmission and distribution market design, the Public Utility Commission of Texas shall provide to the Senate Committee on Business and Commerce and the House Committee on Regulated Industries a report that contains:

(1) an executive summary and detailed description of the changes in the wholesale transmission and distribution market that the commission has ordered, including the effect the new market design is anticipated to have on local congestion costs;

(2) a list of entities, associations, and groups that have submitted comments to the commission on the new market design, classified by whether the comments indicated support for or opposition to the new market design;

(3) a comparison of the new market design to any similar market design adopted in any other state;

(4) a timeline for the implementation of the new market design, including estimated costs of implementation;

(5) the estimated increases in wholesale and retail electricity prices that will be caused in each county in this state by the new market design, projected over the first five years after the date the new design will be implemented; and

(6) the names, business addresses, and telephone numbers of the members of the Texas Nodal Team and of any other quasi-official working group that recommends to the commission the adoption of the new market design.

Amendment No. 17 was adopted.

Amendment No. 18

Representative Martinez Fischer offered the following amendment to **CSHB 1779**:

Amend **CSHB 1779** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS as appropriate:

SECTION _____. Section 32.001(b), Utilities Code, is amended to read as follows:

(b) The commission has exclusive appellate jurisdiction to review an order or ordinance of a municipality exercising exclusive original jurisdiction under Chapter 33 [this subtitle].

Amendment No. 19

Representative Martinez Fischer offered the following amendment to Amendment No. 18:

Amend Floor Amendment No. 18 by Martinez Fischer on page 1 of the amendment by striking line 8 and substituting:

original jurisdiction under this subtitle, including under Chapter 33.

Amendment No. 19 was adopted.

Amendment No. 18, as amended, was adopted.

Amendment No. 20

Representative Turner offered the following amendment to **CSHB 1779**:

Amend **CSHB 1779** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill as appropriate:

SECTION __. Subchapter A, Chapter 17, Utilities Code, is amended by adding Sections 17.008 and 17.009 to read as follows:

Sec. 17.008. PROTECTION OF RESIDENTIAL ELECTRIC SERVICE APPLICANTS AND CUSTOMERS. (a) In this section and in Section 17.009:

(1) "Credit history":

(A) means information regarding an individual's past history of:

(i) financial responsibility;

(ii) payment habits; or

(iii) creditworthiness; and

(B) does not include an individual's outstanding balance for retail electric or telecommunications service.

(2) "Credit score" means a score, grade, or value that is derived by a consumer reporting agency, as defined under Section 603(f) of the Fair Credit Reporting Act (15 U.S.C. Section 1681a(f)), using data from a credit history in any type of model, method, or program for the purpose of grading or ranking credit report data, whether derived electronically, from an algorithm, through a computer software application model or program, or through any other analogous process.

(3) "Utility payment data" means a measure that is derived by a consumer reporting agency, as defined under Section 603(f) of the Fair Credit Reporting Act (15 U.S.C. Section 1681a(f)), from a model specifically designed to correlate to utility payment histories.

(b) A retail electric provider may not deny an applicant's request to become a residential electric service customer on the basis of the applicant's credit history or credit score, but may use the applicant's utility payment data until the later of January 1, 2007, or the date on which the price to beat is no longer in effect in the geographic area in which the customer is located.

(c) Notwithstanding Subsection (b), while a retail electric provider is required to provide service to a geographic area as the affiliated retail electric provider, the provider may not deny an applicant's request to become a residential electric service customer within that geographic area on the basis of the applicant's credit history, credit score, or utility payment data.

(d) After the date described in Subsection (b), a retail electric provider, including an affiliated retail electric provider, may not deny an applicant's request to become a residential electric service customer on the basis of the applicant's credit history, credit score, or utility payment data but may use the applicant's electric bill payment history.

(e) A retail electric provider may not use a credit score, a credit history, or utility payment data as the basis for determining the price for month-to-month electric service or electric service that includes a fixed price commitment of 12 months or less:

(1) for an existing residential customer; or

(2) in response to an applicant's request to become a residential electric service customer.

(f) After the date described in Subsection (b), on request by a customer or former customer in this state, a retail electric provider or electric utility shall timely provide to the customer or former customer bill payment history information with the retail electric provider or electric utility during the preceding 12-month period. Bill payment history information may be obtained by the customer or former customer once during each 12-month period without charge. If additional copies of bill payment history information are requested during a 12-month period, the electric service provider may charge the customer or former customer a reasonable fee for each copy.

(g) On request by a retail electric provider, another retail electric provider or electric utility shall timely verify information that purports to show a customer's service and bill payment history with the retail electric provider or electric utility.

(h) This section does not limit a retail electric provider's authority to require a deposit or advance payment as a condition of service.

(i) Notwithstanding Subsection (e), a retail electric provider may provide rewards, benefits, or credits to residential electric service customers on the basis of the customer's payment history for retail electric service to that provider.

Sec. 17.009. PROTECTION OF RESIDENTIAL TELEPHONE SERVICE APPLICANTS AND CUSTOMERS. (a) A provider of basic local telecommunications services and nonbasic network services may not deny an applicant's request to become a residential customer on the basis of the applicant's credit history or credit score.

(b) A provider of basic local telecommunications services and nonbasic network services may not use a credit score or credit history as the basis for determining price for service:

(1) for an existing residential customer; or

(2) in response to an applicant's request to become a residential customer.

(c) This section does not limit the authority of a provider of basic local telecommunications services and nonbasic network services to require a deposit, advance payment, or credit limit as a condition of service.

Amendment No. 21

Representative Naishtat offered the following amendment to Amendment No. 20:

Amend Amendment No. 20 for **CSHB 1779** by adding the following appropriately numbered item to the amendment:

() Add the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS as appropriate:

SECTION __. Section 56.021, Utilities Code, is amended to read as follows:

Sec. 56.021. UNIVERSAL SERVICE FUND ESTABLISHED. The commission shall adopt and enforce rules requiring local exchange companies to establish a universal service fund to:

(1) assist telecommunications providers in providing basic local telecommunications service at reasonable rates in high cost rural areas;

(2) reimburse the telecommunications carrier that provides the statewide telecommunications relay access service under Subchapter D;

(3) finance the specialized telecommunications assistance program established under Subchapter E;

(4) reimburse the department, the Texas Commission for the Deaf and Hard of Hearing, and the commission for costs incurred in implementing this chapter and Chapter 57;

(5) reimburse a telecommunications carrier providing lifeline service as provided by 47 C.F.R. Part 54, Subpart E, as amended;

(6) finance the implementation and administration of an integrated eligibility process created under Section 17.007 for customer service discounts relating to telecommunications services, including outreach expenses the commission determines are reasonable and necessary;

(7) reimburse a designated provider under Subchapter F; ~~and~~

(8) reimburse a successor utility under Subchapter G; and

(9) finance the program established under Subchapter H.

SECTION __. Chapter 56, Utilities Code, is amended by adding Subchapter H to read as follows:

SUBCHAPTER H. AUDIO NEWSPAPER PROGRAM

Sec. 56.301. AUDIO NEWSPAPER ASSISTANCE PROGRAM. The commission by rule shall establish a program to provide from the universal service fund financial assistance for a free telephone service for blind and visually impaired persons that offers the text of newspapers using synthetic speech. The commission may adopt rules to implement the program.

Amendment No. 21 was adopted.

Amendment No. 22

Representative J. Keffer offered the following amendment to Amendment No. 20:

Amend the Turner Amendment to **CSHB 1779** by adding the following items:

(1) Add the following Sections to the bill:

SECTION __. Section 304.001(d), Local Government Code, is amended to read as follows:

(d) A political subdivision corporation may negotiate on behalf of its incorporating political subdivisions and the citizens of member political subdivisions who create citizen aggregation programs under Section 304.002 for the purchase of electricity, make contracts for the purchase of electricity, purchase electricity, and take any other action necessary to purchase electricity for use in the public facilities or by citizens of the political subdivision or subdivisions represented by the political subdivision corporation. In this subsection, "electricity" means electric energy, capacity, energy services, ancillary services, or other electric services for retail or wholesale consumption by the political subdivisions.

SECTION __. Section 304.002, Local Government Code, is amended by amending Subsection (a) and adding Subsections (b-1), (d), (e), and (f) to read as follows:

(a) political subdivision aggregator may negotiate for the purchase of electricity and energy services, contract for the purchase of electricity, purchase electricity, and take any other action necessary to purchase electricity on behalf of the citizens of the political subdivision or subdivisions. ~~The citizens must affirmatively request to be included in the aggregation services by the political subdivision aggregator.~~

(b-1) The governing body of a political subdivision with a population of less than 125,000 may adopt an ordinance or resolution providing for automatic enrollment of citizens of the political subdivision in aggregation services. If the governing body of the political subdivision provides for automatic enrollment of the citizens in aggregation services, the political subdivision shall send to each citizen by mail a 60 day written notice that citizens served by an affiliated retail electric provider will be automatically enrolled unless a citizen expressly requests to not be enrolled.

(d) An affiliated retail electric provider and the transmission and distribution utility shall provide to a political subdivision any information the political subdivision considers necessary to solicit or administer an aggregation program under this section, including the name, address, electric service identifier, and monthly usage of each residential customer who reside in the political subdivision. The consent of a customer may not be required as a condition of providing information to a political subdivision under this subsection. The political subdivision may provide to a third party or an aggregator information received under this subsection, but only for the purpose of bidding on, implementing, and administering the aggregation program.

(e) This section is not intended to abrogate an electric service contract between a citizen of any municipality and a competitive retail electric provider.

(f) Any savings attributable to the aggregation program shall be directed to citizen participants except that the political subdivision may recover its actual administrative costs.

Amendment No. 22 was withdrawn.

(Phillips in the chair)

Amendment No. 20, as amended, was adopted.

Amendment No. 23

Representative Martinez Fischer offered the following amendment to **CSHB 1779**:

Amend **CSHB 1779** by adding the following appropriately numbered section:

SECTION __. Subchapter D, Chapter 39, Utilities Code, is amended by adding Section 39.1519 to read as follows:

Sec. 39.1519. ERCOT ACCOUNTABILITY TASK FORCE. (a) The ERCOT accountability task force consists of:

(1) the comptroller, who serves as the presiding officer of the task force;
and

(2) representatives of:

(A) the comptroller's office;

(B) the office of the attorney general;

(C) the Department of Public Safety of the State of Texas;

(D) the Public Utility Commission of Texas;

(E) the Office of Public Utility Counsel; and

(F) the office of the state auditor.

(b) The task force shall oversee the implementation of best management practices for the independent organization certified under Section 39.151 for ERCOT. The task force may contract with independent fraud investigators or other experts as the task force determines is appropriate. ERCOT shall pay the costs of task force contractors under this subsection.

(c) The task force shall present a report on the activities and findings of the task force to the governor, lieutenant governor, the speaker of the house of representatives, and to the presiding officer of each legislative standing committee with jurisdiction over electric services not later than January 1, 2007. This section expires September 1, 2007.

Amendment No. 23 was withdrawn.

COMMITTEE GRANTED PERMISSION TO MEET

Representative Krusee requested permission for the Committee on Transportation to meet while the house is in session at 5:30 p.m. today, in 3W.9, for a formal meeting, to consider pending business.

Permission to meet was granted.

COMMITTEE MEETING ANNOUNCEMENT

The following committee meeting was announced:

Transportation, 5:30 p.m. today, 3W.9, for a formal meeting, to consider pending business.

CSHB 1779 - (consideration continued)

Amendment No. 24

Representative P. King offered the following amendment to **CSHB 1779**:

Amend **CSHB 1779** as follows:

(1) On page 8, line 17, strike "contested proceeding before" and substitute "contested proceeding hearing before".

(2) On page 8, line 18, insert after the period:

This subsection does not affect the ability of an entity to hire or contract for other persons to provide services, including professional services, to the entity in relation to a contested proceeding, including a hearing related to a contested proceeding.

Amendment No. 24 was adopted.

Amendment No. 25

Representative P. King offered the following amendment to **CSHB 1779**:

Amend **CSHB 1779** by adding the following appropriately numbered sections to read as follows and renumbering subsequent sections accordingly:

SECTION _____. Subtitle C, Title 2, Utilities Code, is amended by adding Chapter 65 to read as follows:

CHAPTER 65. STATEWIDE CABLE AND VIDEO FRANCHISE

Sec. 65.001. DEFINITIONS. In this chapter:

(1) "Cable service" is defined as set forth in 47 U.S.C. Section 522(6).

(2) "Cable service provider" means a person who provides cable service.

(3) "Certificated provider" means a person who has been issued a certificate under Chapter 54.

(4) "Communications facility" means the equipment and components of a communications network provider, and includes the property owned, operated, or controlled in connection with the provider's business operations.

(5) "Communications network" means a component or facility that is, in whole or in part, physically located within a public right-of-way and that is used to provide video programming, cable, voice, or data services.

(6) "Communications service" means the transmission, conveyance, or routing of a cable service or video programming as defined in this chapter, voice service, or data service by or through any communications network regardless of the protocol used for such transmission or conveyance.

(7) "Communications service provider" means a person or group of persons engaged in the provision of communications services, without regard to ownership of a communications network.

(8) "Franchise" means an initial authorization, or renewal of an authorization, issued by a franchising authority, regardless of whether the authorization is designated as a franchise, permit, license, resolution, contract, certificate, agreement, or otherwise, that authorizes the construction and operation of a communications network in the public rights-of-way.

(9) "Franchise fee" means the amount of compensation paid to a franchising authority by a franchisee under the terms of the franchise.

(10) "Franchisee" means a communications service provider that has been granted a franchise.

(11) "Public right-of-way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which a municipality has an interest.

(12) "Video programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station, as set forth in 47 U.S.C. Section 522(20).

(13) "Video service" means video programming services provided through wireline facilities located at least in part in the public right-of-way without regard to delivery technology, including Internet protocol technology. This definition does not include any video service provided by a commercial mobile service provider as defined in 47 U.S.C. Section 332(d).

(14) "Video service provider" means a video programming distributor that distributes video programming services through wireline facilities located at least in part in the public right-of-way without regard to delivery technology. This term does not include a cable service provider.

(15) "Voice service" means voice communications services provided through wireline facilities located at least in part in the public right-of-way, without regard to the delivery technology, including Internet protocol technology.

Sec. 65.002. STATE AUTHORIZATION TO PROVIDE CABLE OR VIDEO SERVICE. (a) Any entity or person seeking to provide cable or video service in this state shall file an application for a state franchise with the commission as required by this section.

(b) The commission shall issue a certificate of franchise authority to offer cable or video service within this state upon receiving from the applicant an affidavit signed by an officer or general partner of the applicant entity affirming the following representations and information:

(1) that, if applicable, the applicant has filed or will timely file with the Federal Communications Commission all forms required by that agency in advance of offering cable service;

(2) that the applicant agrees to comply with all applicable federal and state statutes and regulations;

(3) a description of the geographic areas to be served by the applicant, which may include unincorporated areas, which description shall be promptly updated by the applicant if service is expanded to a previously undesignated geographic area; and

(4) the location of the principal place of business and the names of the principal executive officers of the applicant.

(c) The certificate of franchise authority issued by the commission shall contain the following:

(1) a grant of authority to provide cable or video service as requested in the application;

(2) a grant of authority to use and occupy the public rights-of-way in the delivery of that service, subject to the laws of this state, including the police powers of the municipalities in which the service is delivered; and

(3) a statement that the grant of authority is subject to lawful operation of the cable or video service by the applicant or its successor in interest.

(d) The certificate of franchise authority issued by the commission is fully transferable to any successor in interest to the applicant to which it is initially granted. A notice of transfer shall be promptly filed with the commission upon the completion of such transfer.

Sec. 65.003. TERMINATION OF MUNICIPAL FRANCHISE BY CABLE SERVICE PROVIDER. (a) Beginning September 1, 2005, a cable service provider may elect to terminate any municipal franchise existing on the date this chapter takes effect by providing written notice to the affected municipality. The termination shall be effective as of the date the municipality receives the notice.

(b) A cable service provider electing to terminate an existing municipal franchise shall be responsible for remitting to the affected municipality within 90 days of the effective date of termination any accrued but unpaid franchise fees due under the franchise being terminated. If the cable service provider has credit remaining from prepaid franchise fees, the provider may deduct the amount of the remaining credit from any future fees or taxes it must pay to the municipality, either directly or through the comptroller. Any municipality receiving notice of a terminated franchise under this chapter shall retain for one year following termination the right to audit the accuracy of any payments that were made to the municipality under the terminated franchise during a period not to exceed four years prior to the termination.

Sec. 65.004. REQUIREMENTS APPLICABLE TO CABLE SERVICE PROVIDERS AND VIDEO SERVICE PROVIDERS. (a) Pursuant to 47 U.S.C. Section 531, a cable or video service provider that owns a communications network or that leases or otherwise uses a third-party communications network, including that of an affiliate, to deliver cable or video service within the municipality shall, not later than 120 days after a request by a municipality served by the cable or video service provider as specified in the certificate, provide where technically capable the municipality with capacity in its communications network to allow public, educational, and governmental (PEG) access channels for noncommercial programming as follows. If a municipality did not have any public, educational, and governmental access channels as of September 1, 2005, then the cable or video service provider shall furnish:

(1) up to three PEG channels for a municipality with a population of at least 50,000; and

(2) up to two PEG channels for a municipality with a population of less than 50,000.

(b) Notwithstanding Subsection (a), the number of PEG channels required to be provided by each cable or video service provider shall not be less than the number of PEG channels a municipality has activated under the terms of any franchise, contract, or other agreement, including any channels received as of September 1, 2005, in lieu of public, educational, or governmental channels, regardless of whether the municipal franchise is terminated under this chapter. The following conditions shall apply to the provision of any PEG channels carried in accordance with this subsection or Subsection (a):

(1) the cable or video service provider may, at its sole discretion, place any channel utilized by a municipality on any tier of service following September 1, 2005, except that the municipality may, at its sole discretion, designate up to three PEG channels (or, in the case of a municipality with a population of less than 50,000, up to two PEG channels) utilized by the municipality, which shall remain on the lowest service tier for which no equipment is required to receive the channel; provided, however, if service is provided only in digital format, the PEG channels shall be made available in that format;

(2) after a cable or video service provider has commenced commercial delivery of cable or video services in a municipality and no later than 120 days after a written request from a municipality, a cable or video service provider shall, as applicable, either provide the initial access channel allowed in Subsection (a) if a municipality did not have any PEG channels as of September 1, 2005, or shall continue to provide the channels in service as of September 1, 2005, subject to the terms of this section. In the event a municipality has not utilized the minimum number of access channels as permitted in Subsection (a), access to the additional channel capacity allowed in Subsection (a) shall be provided upon 90 days' written notice if the municipality meets the following standard. If a municipality has one active PEG channel and wishes to activate an additional PEG channel, the initial channel shall be considered to be substantially utilized when 12 hours are programmed on that channel each calendar day. In addition, at least 40 percent of the 12 hours of programming for each business day on average over each calendar quarter must be nonrepeat programming. Nonrepeat programming shall include the first three video-castings of a program. If a municipality is entitled to three PEG channels under Subsection (a) and has in service two active PEG channels, each of the two active channels shall be considered to be substantially utilized when 12 hours are programmed on each channel each calendar day and at least 50 percent of the 12 hours of programming for each business day on average over each calendar quarter is nonrepeat programming for three consecutive calendar quarters;

(3) a municipality shall bear the cost of any construction required to establish a connection between a municipality's origination point and the cable or video service provider's communication network;

(4) the operation of any PEG channel provided pursuant to this section shall be the responsibility of the municipality receiving the benefit of such channel, and the cable or video service provider shall have no obligation to operate such channel other than the transmission of such channel; and

(5) any PEG channel provided pursuant to this section that is not utilized by the municipality for at least eight hours a day shall no longer be made available to the municipality, but may be programmed at the cable or video service provider's discretion. At such time as the municipality can certify to the cable or video service provider a schedule for at least eight hours of daily programming, the cable or video service provider shall restore the previously lost channel but shall be under no obligation to carry that channel on a basic or analog tier.

(c) The requirements of Subsections (a) and (b) shall apply equally to all cable or video service providers that own a communications network or lease or otherwise use a third-party communications network, including that of an affiliate, to deliver cable or video service within a municipality.

(d) Only a municipality may seek enforcement of the requirements of Subsections (a), (b), and (c) by initiating a proceeding with a court of competent jurisdiction.

(e) It is the sole responsibility of the municipality to ensure that any and all transmissions, content, or programming to be transmitted over a channel or facility are provided or submitted to the cable or video service provider in a manner or form that is capable of being accepted and transmitted by a provider, without requirement for additional alteration or change in content by the provider, over the particular network of the cable or video service provider, which is compatible with the technology or protocol utilized by the cable or video service provider to deliver services.

(f) Consistent with 47 U.S.C. Section 541(a)(3), a cable or video service provider may not deny access to service to any group of potential residential subscribers because of the income of the residents of the local area in which such group resides. A provider may satisfy the requirements of this subsection through the use of an alternative technology notwithstanding differences in the specific content or functionality provided.

(g) An affected person may seek enforcement of the requirement described in Subsection (f) by initiating a proceeding with a court of competent jurisdiction. A municipality within which the potential residential video subscribers referenced in Subsection (f) reside shall be an affected person for purposes of this section.

(h) A cable or video service provider shall comply with customer service requirements consistent with 47 C.F.R. Section 76.309(c) until there are more than two providers offering service including direct-to-home satellite service in the affected area.

(i) This state or a political subdivision shall not require a mandatory build out on either a cable or video service provider except as specifically required by federal law.

(j) Should a cable or video service provider be found by a court of competent jurisdiction to be in noncompliance with the requirements of this section, the court shall order such provider, within a reasonable period of time, to cure such noncompliance. Failure to comply shall subject the provider to such

penalties as the court shall reasonably impose, up to and including revocation of any state franchise granted under this chapter. A municipality within which the provider offers video service shall be an appropriate party in any such litigation.

(k) A municipality may not prefer or give advantage to any cable or video service provider operating under a state franchise or discriminate against any cable or video service provider operating under a state franchise in any manner in the requirements provided in this subsection. Any requirements shall be uniformly applied, by ordinance, to all cable or video service providers operating under a state franchise within the municipality. A municipality's authority to regulate the activities of a cable or video service provider is limited to the requirements imposed on a cable or video service provider operating under a state franchise by this subsection. Specifically, a municipality is authorized to impose by ordinance a requirement:

(1) to require that a communications service provider that is providing cable or video service within the municipality register with the municipality and maintain a point of contact;

(2) to establish reasonable guidelines regarding the use of the public, educational, and governmental access channels; and

(3) to submit reports within 30 days on the customer service standards referenced in Subsection (h) if the provider is subject to those standards and has continued and unresolved customer service complaints indicating a clear failure on the part of the provider to comply with the standards. If the reports are not provided or are incomplete, or if they verify noncompliance, then the municipality, after providing appropriate due process and a right to be heard, may file an appropriate proceeding in the municipal court.

(l) Nothing in this section prohibits a municipality from exercising its nondiscriminatory police power under Section 66.003 with respect to a communications service provider's use of the public rights-of-way. A court of competent jurisdiction shall have jurisdiction to enforce and determine the lawfulness of any ordinance adopted by a municipality under this section.

(m) Except as provided in this chapter, a municipality may not require any monetary compensation, nonmonetary compensation, facilities, value, in-kind support, free service, or other thing of value for the right or privilege of a cable provider or video service provider to provide service or to occupy or use a public right-of-way.

(n) A cable or video service provider electing to terminate an existing municipal franchise or initiating service after September 1, 2005, shall pay each municipality in which it provides service a fee equal to five percent of the provider's gross revenues.

(o) For purposes of this section, "gross revenues" means:

(1) all consideration of any kind or nature, including without limitation cash, credits, property, and in-kind contributions (services or goods) derived by the provider from the operation of the provider's system to provide cable or video service within the municipality;

(2) all fees charged to subscribers for any and all cable or video service provided by the provider, and compensation received by the provider or its affiliates that is derived from the operation of the provider's system to provide cable or video service with respect to commissions that are paid to the provider as compensation for promotion or exhibition of any products or services on its system, such as a "home shopping" or a similar channel, subject to Subsection (p)(5); and

(3) a pro rata portion of all revenue derived by the cable or video provider or its affiliates pursuant to compensation arrangements for advertising derived from the operation of the provider's system to provide cable or video service within the municipality, subject to Subsection (p)(3). The allocation shall be based on the number of subscribers in the municipality divided by the total number of subscribers in relation to the relevant regional or national compensation arrangement.

(p) For purposes of this section, "gross revenues" does not include:

(1) revenues not actually received, even if billed, such as bad debt;

(2) revenues received by any affiliate or any other person in exchange for supplying goods or services used by the provider to provide cable or video service;

(3) refunds, rebates, or discounts made to subscribers, leased access providers, advertisers, or the municipality;

(4) any revenues from services classified as non-cable or non-video service under federal or state law, including without limitation revenue received from telecommunications services, revenue received from information services, and any other revenues attributed by the provider to non-cable or non-video service in accordance with commission or Federal Communications Commission rules, regulations, standards, or orders;

(5) any revenue paid by subscribers to home shopping programmers directly from the sale of merchandise through any home shopping channel offered as part of the cable or video service;

(6) the sale of cable or video service for resale in which the purchaser is required to collect the five percent fee from the purchaser's customer;

(7) any tax of general applicability imposed upon the provider or upon subscribers by a city, state, federal, or any other governmental entity and required to be collected by the provider and remitted to the taxing entity, including, but not limited to, sales and use tax, gross receipts tax, excise tax, utility users tax, public service tax, and communication taxes;

(8) the provision of cable service to customers at no charge as required or allowed by a municipality, including without limitation the provision of cable service to public institutions, public schools, or governmental entities;

(9) any foregone revenue from the provider's provision of free or reduced-cost cable service to any person, including without limitation the municipality and other public institutions or other institutions;

(10) sales of capital assets or sales of surplus equipment;

(11) reimbursement by programmers of marketing costs incurred by the provider for the introduction of new programming; or

(12) directory or Internet advertising revenue including, but not limited to, yellow page, white page, banner advertisement, and electronic publishing.

(q) The fee payable under this section is to be paid to the municipality quarterly, 45 days after the end of the quarter. Each payment shall be accompanied by a summary as to the basis for the calculation of the fee. A municipality may review the business records of the cable provider or video service provider to the extent necessary to ensure compensation in accordance with this chapter. Each party shall bear the party's own costs of the examination. The municipality may, in the event of a dispute as to proper compensation under this chapter, bring an action in a court of competent jurisdiction.

(r) For purposes of this section, a provider's system shall consist solely of the optical spectrum wavelength(s), bandwidth, or other current or future technological capacity used for the transmission of video programming over wireline directly to subscribers within the geographic area within the municipality as designated by the provider in its franchise.

(s) A municipality may not require a cable service provider or video service provider to pay the municipality any fee or assessment, including any application, permit, excavation, or inspection fee or any fee for the support of public, educational, or governmental access channels. This subsection does not preclude the assessment of generally applicable taxes or fees.

(t) A cable service provider or a video service provider may recover from the provider's customers the fee imposed by this chapter.

(u) Notwithstanding that a municipal cable franchise may be terminated pursuant to Section 65.003, the following services shall continue to be provided by the cable provider that was furnishing services pursuant to its terminated franchise until 2008 or until the term of the franchise was to expire, whichever is sooner:

(1) institutional network capacity, however defined or referred to in the municipal cable franchise, but generally referring to a private line data network capacity for use by the municipality for noncommercial purposes, shall continue to be provided at the same capacity as was provided to the municipality prior to the date of the termination, provided that the municipality will compensate the provider at its actual incremental cost for such capacity. For purposes of this section, "actual incremental cost" shall mean only current out-of-pocket expenses for labor, equipment repair or replacement, or any tax expenses directly associated with such labor or equipment of the video service provider necessarily and directly used for the provision of what, under a superseded franchise, were in-kind services, exclusive of any profit or overhead such as, without limitation, any depreciation, amortization, or administrative expenses; and

(2) cable services to community public buildings, such as municipal buildings and public schools, shall continue to be provided to the same extent provided immediately prior to the date of the termination. Such cable service generally refers to the existing cable drop connections to such facilities and the tier of cable service provided pursuant to the franchise at the time of the termination.

Sec. 65.005. APPLICABILITY OF OTHER LAWS. Nothing herein shall be interpreted to prevent a voice provider, cable service provider or video service provider, or municipality from seeking clarification of its rights and obligations under federal law or to exercise any right or authority under federal or state law.

SECTION _____. Subtitle C, Title 2, Utilities Code, is amended by adding Chapter 66 to read as follows:

CHAPTER 66. MUNICIPAL POWERS AND DUTIES

Sec. 66.001. DEFINITIONS. The definitions contained in Chapter 65 apply to this chapter.

Sec. 66.002. NONDISCRIMINATION BY MUNICIPALITY. (a) A municipality shall allow a communications service provider to install, construct, and maintain a communications network within a public right-of-way and shall provide the communications service provider with open, comparable, nondiscriminatory, and competitively neutral access to the public right-of-way. All use of a public right-of-way by the communications service provider is nonexclusive and subject to Section 66.003.

(b) A municipality may not discriminate against a communications service provider regarding:

(1) the authorization or placement of a communications network in a public right-of-way;

(2) access to a building; or

(3) a municipal utility pole attachment term.

(c) A municipally owned utility may not charge a pole attachment rate or underground conduit rate that exceeds the fee the utility would be permitted to charge if the utility's rates were regulated under 47 U.S.C. Section 224(e) and the rules of the Federal Communications Commission adopted thereunder; provided, further, that such municipally owned utility shall charge a single, uniform pole attachment fee to all attaching entities not owned by the municipality or municipally owned utility regardless of the services carried over the networks attached to the poles or underground conduit.

Sec. 66.003. MUNICIPAL POLICE POWER; OTHER AUTHORITY. (a) A municipality may enforce police power-based regulations in the management of a public right-of-way that apply to all persons within the municipality. A municipality may enforce police power-based regulations in the management of the activities of a communications service provider to the extent that they are reasonably necessary to protect the health, safety, and welfare of the public. Police power-based regulation of a communications service provider's use of the public right-of-way must be competitively neutral and may not be unreasonable or discriminatory. A municipality may not impose the following regulations on activities of a communications service provider, including:

(1) requirements that particular business offices be located in the municipality;

(2) requirements for the filing of reports and documents with the municipality that are not required by state or federal law and that are not related to the use of the public right-of-way; provided, however, that a municipality may request maps and records maintained in the ordinary course of business for

purposes of locating the portions of a communications network that occupy public rights-of-way. Any maps or records of the location of a communications network received by a municipality shall be confidential and exempt from disclosure under Chapter 552, Government Code, and may be used by a municipality only for the purpose of planning and managing construction activity in the public right-of-way; however, in no event shall a municipality request information as to the capacity or technical configuration of the provider's facilities;

(3) the inspection of a communications service provider's business records;

(4) the approval of transfers of ownership or control of a communications service provider's business, except that a municipality may require that a communications service provider maintain a current point of contact and provide notice of a transfer within a reasonable time; or

(5) requirements that a provider that is self-insured under the provisions of state law obtain insurance or bonding for any activities within the municipality, except that such providers are required to provide substantially the same defense and claims processing as an insured provider; further, no bond shall be required from a provider for any work consisting of aerial construction; however, reasonable bonds may be required of providers that cannot demonstrate a record of at least four years' performance of work in any municipal public right-of-way free of currently unsatisfied claims by a municipality for damage to the right-of-way.

(b) Notwithstanding any other law, a municipality may require the issuance of a construction permit, without cost, to a communications service provider that is locating facilities in or on a public right-of-way within the municipality. The terms of the permit shall be consistent with construction permits issued to other persons excavating in a public right-of-way.

(c) In the exercise of its lawful regulatory authority, a municipality shall promptly process all valid and administratively complete applications of a communications service provider for a permit, license, or consent to excavate, set poles, locate lines, construct facilities, make repairs, affect traffic flow, or obtain zoning or subdivision regulation approvals or other similar approvals and shall make every reasonable effort to not delay or unduly burden the provider in the timely conduct of its business.

(d) If there is an emergency necessitating response work or repair, a communications service provider may begin the repair or emergency response work or take any action required under the circumstances without prior approval from the affected municipality, if the communications service provider notifies the municipality as promptly as possible after beginning the work and later obtains any approval required by a municipal ordinance applicable to emergency response work.

Sec. 66.004. INDEMNITY IN CONNECTION WITH RIGHT-OF-WAY; NOTICE OF LIABILITY. (a) A communications service provider shall indemnify and hold a municipality and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees

(including reasonable attorney's fees and costs of defense), proceedings, actions, demands, causes of action, liability, and suits of any kind and nature, including personal or bodily injury (including death), property damage, or other harm for which recovery of damages is sought, that is found by a court of competent jurisdiction to be caused solely by the negligent act, error, or omission of the communications service provider, any agent, officer, director, representative, employee, affiliate, or subcontractor of the communications service provider, or their respective officers, agents, employees, directors, or representatives, while installing, repairing, or maintaining facilities in a public right-of-way. The indemnity provided by this subsection does not apply to any liability resulting from the negligence of the municipality or its officers, employees, contractors, or subcontractors. If a communications service provider and the municipality are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state without, however, waiving any governmental immunity available to the municipality under state law and without waiving any defenses of the parties under state law. This subsection is solely for the benefit of the municipality and the communications service provider and does not create or grant any rights, contractual or otherwise, for or to any other person or entity.

(b) A communications service provider and a municipality shall promptly advise the other in writing of any known claim or demand against the communications service provider or the municipality related to or arising out of the communications service provider's activities in a public right-of-way.

SECTION ____. Subtitle C, Title 2, Utilities Code, is amended by adding Chapter 68 to read as follows:

CHAPTER 68. PLACEMENT AND MOVEMENT OF COMMUNICATIONS FACILITIES AND COMPENSATION FOR USE OF THE PUBLIC RIGHT-OF-WAY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 68.001. POLICY. (a) Convergence of technologies in the communications industry requires that existing compensation structures be conformed to ensure that communication providers and municipalities are treated fairly with respect to placing and maintaining facilities in the right-of-way.

(b) It is the policy of this state to:

(1) ensure that communication providers have reasonable access to the public rights-of-way;

(2) ensure that improvements in municipal infrastructure are made in a timely and efficient manner;

(3) provide a funding mechanism for facility relocations that is cost-based, uniform, consistent, and efficient; and

(4) ensure that municipalities are fairly compensated for use of public rights-of-way.

SUBCHAPTER B. LOCAL AUTHORITY TO ENSURE TIMELY INFRASTRUCTURE IMPROVEMENT AND RELOCATION OF FACILITIES

Sec. 68.101. RELOCATION OF COMMUNICATIONS FACILITY LOCATED IN PUBLIC RIGHT-OF-WAY. (a) In this chapter:

(1) "Communications facility" means the equipment and components of a communications network provider and includes the property owned, operated, or controlled in connection with the provider's business operations.

(2) "Communications network provider" means any entity that provides voice, video, telephone, telegraph, communications, cable, information, broadband, or another form of advanced telecommunications services using communications facilities in the public right-of-way.

(3) "Public improvement project" means a construction or improvement activity in a public right-of-way undertaken by or on behalf of a municipality or in conjunction with another entity for any public purpose, other than a construction or improvement activity undertaken solely for beautification purposes.

(4) "Public right-of-way" means the area on, below, or above a public roadway, highway, street, public sidewalk, alley, waterway, or utility easement in which the municipality has an interest.

(b) A municipality must consider in its design of public improvement projects a design that minimizes the relocation of any communications facility. If a municipality determines during the design of a public improvement project that, based on available information, the relocation of any portion of a communications facility may be necessary, the municipality shall provide the communications network provider:

(1) written notice of the planned public improvement project at a point in the design stage that allows the communications network provider sufficient time to offer planning and design alternatives; and

(2) plans and drawings of the project that are sufficient to enable the communications network provider to develop plans for and determine the cost of the necessary relocation.

(c) After providing information pursuant to Sections (b)(1) and (2), a municipality may request a communications network provider to provide the municipality information concerning the provider's facility location. The communications network provider shall provide the information requested within a reasonable time, not to exceed 15 business days. After the municipality and the provider have exchanged information regarding the design and facility location, the municipality shall convene a meeting to give the provider an opportunity to discuss potential design alternatives that may avoid facility relocation or minimize relocation costs. This meeting shall be held in person unless both parties mutually agree to conduct the meeting telephonically. A municipality shall consider all reasonable and economically feasible alternatives and shall provide, in writing, reasons for a decision to reject such alternatives.

(d)(1) Notwithstanding any other provision of law, the governing body of a municipality may require a communications network provider to relocate the provider's facility that is located in a public right-of-way to accommodate a public improvement project. Costs related to such relocation, including the cost of installing the facilities in a new location, or new locations, and the cost of any lands, or any rights or interests in lands, and any other rights acquired to accomplish the relocation or removal, shall be at the municipality's sole expense,

except that a communications network provider shall bear the cost and expense of relocating its communications facilities when the relocation is caused by the widening or straightening of a public roadway.

(2) A municipality may recover the costs of all relocations not paid by the communications network provider in accordance with Section 68.205.

(e) If a municipality has complied with Subsections (b) through (d), a communications network provider shall relocate its facility as required by the municipality if the municipality:

(1) gives the provider 30 days' written notice of the municipality's determination that the facility must be relocated;

(2) specifies the new suitable location for the facility along another area of the public right-of-way; and

(3) reaches an agreement with the communications network provider for a reasonable time for relocating the facility, based on information presented by the affected providers regarding the length of time that is necessary to complete the relocation, that is at a minimum and not earlier than the 90th day after the date the provider receives the information required by Subdivisions (1) and (2), provided that the 90 days shall be calculated only after the 30-day notice period in Subdivision (1) has expired. The provider and the municipality shall negotiate the agreement in good faith.

(f) If the provider fails to comply with the requirements in Subsection (e), the municipality may relocate the facility at the sole cost and expense of the provider. A relocation by the municipality under this section shall be conducted in full compliance with applicable law, using standard equipment and construction practices compatible with the provider's existing facilities, and in a manner that minimizes disruption of provider service.

(g) The time for relocation established under Subsection (e)(3) shall be extended:

(1) by mutual agreement of the municipality and the communications network provider; or

(2) for any reasonable period of time that is warranted based upon generally acceptable industry standards or practices.

(h) The notification requirements and time limitations provided by this chapter do not apply to the relocation of a communications facility the necessity of which is discovered during the construction process of a public improvement project if the relocation is directly caused by inaccurate or insufficient information provided to a municipality by a communications network provider and if the requirements of this section were met initially. In such instance, the communications network provider and the municipality shall reach an agreement to relocate such facility within a reasonable period of time based upon generally accepted industry standards or practices.

(i) A municipality shall make a good faith effort to obtain available third-party funding for a communications facility relocation. If any part of the public improvement project is financed with federal funds, the funds specifically allocated for communications facility relocations shall be used to pay for the relocation of the communications facility.

(j) If a relocation of a portion of a communications facility is necessary before the third anniversary of the certified completion date, the municipality shall pay the cost of the relocation, regardless of whether the relocation is caused by widening or straightening of a public roadway. The cost of a relocation addressed in this section shall be collected by the municipality in accordance with Section 68.205.

(k) This section does not limit the authority of a municipality and a communications network provider to enter into an agreement that establishes the terms for relocating a communications facility, including terms that preempt a provision of this section.

(l) For purposes of this section, a requirement to bury an existing aerial communications facility owned by a communications network provider may not be considered to be a municipal public improvement project.

(m) A municipality's exercise of authority under this section must be competitively neutral, reasonable, and nondiscriminatory.

(n) This section supersedes any inconsistent local ordinances but does not affect a municipality's authority under an agreement, ordinance, or statute to require the relocation of another type of facility not subject to this chapter located in a public right-of-way.

(o) Upon completion of a project addressed by this section, the provider may submit an invoice of its costs for the relocation to the municipality. A municipality shall tender payment to the provider not later than 60 days after receiving an invoice for a project addressed by this section. The foregoing notwithstanding, the provider shall not be entitled to reimbursement for relocations caused by the widening or straightening of public roadways.

(p) To the extent a conflict exists between this chapter and another law relating to the relocation of a communications network provider, this chapter controls. A communications network provider operating under a municipal franchise shall be subject to the provisions of this chapter.

SUBCHAPTER C. ASSESSMENTS FOR RELOCATION OF FACILITIES

Sec. 68.201. DEFINITION. In this chapter, "linear foot" means the entire width of the right-of-way regardless of the number of aerial or underground ducts, subducts, conduits, cables, wires, cabinets, pedestals, appurtenances, or other communications facilities included within the entire width of the public right-of-way, except public utility easements not adjacent to a public roadway.

Sec. 68.202. REQUIRED MUNICIPAL PROCEEDINGS. Within 90 days of the effective date of this section and thereafter on or before September 1 of each year, each municipality that has a public improvement project planned for the next calendar year for which a communications network provider may be entitled to compensation for relocation of its facilities shall initiate a planning proceeding, in order to meet the requirements of this chapter. As part of such proceeding, the municipality shall require each communications network provider to submit the following information supported by an affidavit:

(1) calculations for the total amount of linear feet of public right-of-way within the municipality in which a communications facility owned or controlled by the communications network provider exists;

(2) forecasts for the communications network provider's costs associated with relocation, which may be based on historical data, of its communications facilities, including overhead allocation, within the municipality for the next calendar year; and

(3) route maps showing the general location of the communications network provider's communications facilities, provided that such information is not required to detail the exact placement of facilities, including depth, breadth, or location within the right-of-way of its communications facilities.

Sec. 68.203. FINDINGS OF THE MUNICIPALITY. (a) After holding the initial proceedings under Section 68.202, within a reasonable period of time, the municipality shall issue its findings detailing the following:

(1) the total amount of linear feet currently occupied or maintained by all communications network providers operating in the municipality;

(2) the total amount of linear feet currently occupied or maintained by each communications network provider operating in the municipality;

(3) the total average amount of relocation costs projected for all communications network providers operating in the municipality for the next calendar year based on the forecasts provided by each provider, excluding widening or straightening projects;

(4) the per linear foot cost of facility relocation for the municipality, calculated as the total projected costs for all reimbursable facility relocations of all communications network providers for the next calendar year, divided by the total amount of linear feet occupied by all communications network providers; and

(5) certify the amount of actual costs expended and the variance from the fees collected for purposes of setting a fee in the next fiscal year.

(b) Information received by a municipality under this subchapter may only be used for the purpose set forth in this subchapter and shall be exempt from public disclosure requirements under Chapter 552, Government Code.

Sec. 68.204. APPEAL OF MUNICIPALITY'S FINDINGS. Any communications network provider which alleges that a municipality has not followed the requirements of this chapter shall be entitled to seek enforcement in a court of competent jurisdiction.

Sec. 68.205. ASSESSMENTS FOR RELOCATION OF FACILITIES IN THE PUBLIC RIGHT-OF-WAY. (a) After January 1, 2006, a municipality is authorized to enact an ordinance for the collection of facility relocation fees consistent with Section 68.101(d) from each communications network provider operating in the municipality.

(b) A communications network provider that utilizes the public right-of-way shall pay an annual relocation fee if set by the municipality consistent with Subsection (a), based on the amount of linear feet of public right-of-way occupied by the provider's communications facilities within the municipality.

(c) The fee required under this chapter is based on the linear feet occupied or maintained by the provider regardless of the quantity or type of the provider's communications facilities utilizing the public right-of-way, whether the communications facilities are leased to another provider or whether the communications facilities are underground or aboveground.

(d) On or before September 1 of each year, a municipality shall determine its per linear foot fee for the next fiscal year by updating its calculations by dividing the total forecasted costs of all communications network providers, by the total amount of linear feet occupied by all communications network providers.

(e) A municipality may only assess a fee under this chapter if it has one or more public improvement projects budgeted for the next fiscal year, excluding those related to widening or straightening of public roadways.

Sec. 68.206. PUBLIC RIGHT-OF-WAY COMPENSATION AND MANAGEMENT. (a) A municipality may elect to adopt an ordinance under this section.

(b) Pursuant to its adoption of an ordinance under this section, a municipality may set an annual rate not to exceed \$100 for each communications network provider entity possessing, owning, or controlling communications network facilities located within the municipality's public right-of-way.

(c) Money collected under this section shall compensate municipalities for their use and management of public right-of-way.

Sec. 68.207. REMITTANCE OF FEES. (a) A communications network provider shall remit quarterly to the municipality the fees assessed by the municipality under this chapter. The provider shall remit such fee no later than 45 days after the end of a quarter.

(b) Notwithstanding any other provision of this title, a communications network provider may recover from the provider's retail and wholesale customers an assessment imposed on the provider under this chapter. This may be accomplished by either a separate or existing line item on a customer bill or through contract.

(c) A provider may apportion the recovery of such costs in a reasonable manner between business and residential customers, with business customers receiving a higher pro rata apportionment.

(d) The sales price of services provided by a communications network provider shall not include any charge to recover the assessment to the extent imposed under Subsection (c).

Sec. 68.208. PENALTIES. If after notice and hearing the municipality finds that a person has violated this subchapter, the municipality may assess the following penalties:

(1) for failure to pay an undisputed fee assessed by the municipality under this title, order the provider to pay a fine of not more than two times the amount of the fee owed; and

(2) for failure to submit information or for material underreporting of the amount of linear feet to the municipality, order a fine of not more than two times the amount of the fee that would have been paid if the information was properly provided.

SECTION _____. The Public Utility Commission of Texas shall conduct a study and shall file a report with the legislature not later than September 1, 2006, containing the commission's revenue-neutral, technology-neutral, and competitive-neutral recommendations concerning compensation flowing to the cities from voice, video, and cable providers. The report shall identify the following:

(1) all sources of compensation that have been received by the cities historically from providers of voice, video, and cable;

(2) the providers of voice, video, and cable services available to consumers within municipalities without regard to the technology used to deliver such services;

(3) alternative funding mechanisms, including an additional municipal sales tax or any other additional municipally imposed alternatives, which would be revenue-neutral to the municipalities, and technology-neutral and competitive-neutral in application to providers, their services, and their customers; and

(4) the payment mechanism of the fees, including all municipal fees and franchise fees.

SECTION _____. Chapter 62, Utilities Code, is repealed.

Amendment No. 25 - Point of Order

Representative Y. Davis raised a point of order against further consideration of Amendment No. 25 under Rule 11, Section 6 of the House Rules on the grounds that it was not timely filed.

The chair overruled the point of order.

(Speaker in the chair)

Amendment No. 25 - Point of Order

Representative Talton raised a point of order against further consideration of Amendment No. 25 under Rule 11, Section 2 of the House Rules on the grounds that it is not germane to the bill.

The point of order was withdrawn.

Representative P. King moved to postpone consideration of **CSHB 1779** until 7 p.m. today.

The motion prevailed.

MAJOR STATE CALENDAR
(consideration continued)

CSHB 1516 ON SECOND READING
(by Isett and Swinford)

CSHB 1516, A bill to be entitled An Act relating to the Department of Information Resources' management of state electronic services.

Amendment No. 1

Representative Isett offered the following amendment to **CSHB 1516**:

Amend **CSHB 1516** as follows:

(1) On page 6, line 8, strike "information resources technologies" and substitute "information resources technologies, other than telecommunications services,".

(2) Strike page 6, lines 11-13 and substitute:

(b) This subchapter does not apply to:

(1) the Department of Public Safety's use for criminal justice or homeland security purposes of a federal database or network;

(2) a Texas equivalent of a database or network described by Subdivision (1) that is managed by the Department of Public Safety;

(3) the uniform statewide accounting system, as that term is used in Subchapter C, Chapter 2101;

(4) the state treasury cash and treasury management system; or

(5) a database or network managed by the comptroller to:

(A) collect and process multiple types of taxes imposed by the state; or

(B) manage or administer fiscal, financial, revenue, and expenditure activities of the state under Chapter 403.

(3) On page 14, line 6, strike "technology services" and substitute "technology services, other than telecommunications services,".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Isett offered the following amendment to **CSHB 1516**:

Amend **CSHB 1516** by striking page 14, line 25, through page 15, line 1, and substituting the following:

(c) In contracting for commodity items under this section, the department shall:

(1) make good faith efforts to provide contracting opportunities for, and to increase contract awards to, historically underutilized businesses; and

(2) give precedence to purchasing requirements in Chapter 122, Human Resources Code, over any purchasing practices described by this subchapter.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Isett offered the following amendment to **CSHB 1516**:

Amend **CSHB 1516** as follows:

(1) In Article 1 of the bill, insert the following appropriately numbered sections and renumber the subsequent sections of Article 1 accordingly:

SECTION 1. _____. Section 2157.003, Government Code, is amended to read as follows:

Sec. 2157.003. DETERMINING BEST VALUE FOR PURCHASES OF AUTOMATED INFORMATION SYSTEMS. "Best value" for purposes of this chapter means the lowest overall cost of an automated information system. In determining the lowest overall cost for a purchase or lease of an automated information system under this chapter, the commission or a state agency shall consider factors including:

- (1) the purchase price;
- (2) the compatibility to facilitate the exchange of existing data;
- (3) the capacity for expanding and upgrading to more advanced levels of technology;
- (4) quantitative reliability factors;
- (5) the level of training required to bring persons using the system to a stated level of proficiency;
- (6) the technical support and additional staffing requirements for the maintenance of data across a network platform and the management of the network's hardware and software;
- (7) the opportunity for cost savings and operational efficiencies through implementation of the system;
- (8) the ability to accommodate the transfer of functionality to another network platform if a disaster or other event that interferes with performance occurs;
- (9) the compliance with applicable department [~~Department of Information Resources~~] statewide standards validated by criteria adopted by the department by rule; and
- (10) [~~(9)~~] applicable factors listed in Sections 2155.074 and 2155.075.

SECTION 1. _____. Section 2157.063(b), Government Code, is amended to read as follows:

(b) In determining which goods or services are in the state's best interest, the agency shall consider:

- (1) the installation and hardware costs;
- (2) the overall life-cycle cost of the system or equipment;
- (3) the estimated cost of employee training and estimated increase in employee productivity;
- (4) the estimated software and maintenance costs; [~~and~~]
- (5) the estimated cost of expanding or upgrading to more advanced levels of technology; and
- (6) the rules that prescribe applicable statewide standards adopted by the department [~~Department of Information Resources~~].

(2) Strike page 18, line 19, through page 19, line 15.

(3) Strike page 19, line 24, through page 20, line 9.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Isett offered the following amendment to **CSHB 1516**:

Amend **CSHB 1516** by adding the following appropriately numbered section to Article 1 of the bill and renumbering subsequent sections of Article 1 accordingly:

SECTION 1. _____. Subchapter B, Chapter 2170, Government Code, is amended by adding Section 2170.061 to read as follows:

Sec. 2170.061. ACQUISITION WITHOUT COMPETITIVE BID; USE OF CERTAIN DISASTER-RELATED NETWORK AND STATEWIDE TECHNOLOGY CENTERS. (a) In this section, "network" means the Lonestar Education and Research Network or its successor.

(b) The department may acquire telecommunications services from the network without competitive bids for a purpose described by this section.

(c) The department may use the network only as provided by this section.

(d) During an emergency, including a single node failure or a system-wide failure of the consolidated telecommunications system established under this chapter, the department may divert telecommunications services traffic to the network to avoid service interruption. After resolution of the emergency and on a determination that the consolidated telecommunications system is operational, the telecommunications services traffic must be diverted back to the consolidated telecommunications system.

(e) The department may also use the network to transfer data that is not time sensitive to or from a statewide technology center established and operated by the department under Subchapter L, Chapter 2054.

Amendment No. 4 was adopted.

Amendment No. 5

Representative Haggerty offered the following amendment to **CSHB 1516**:

Amend **CSHB 1516** by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION _____. (a) The Health and Human Services Commission shall suspend all activities related to establishing a call center under Section 531.063, Government Code, as added by Chapter 198, Acts of the 78th Legislature, Regular Session, 2003, including conducting negotiations regarding a proposed contract for a call center, and, if the commission entered into a contract for the establishment of a call center under Section 531.063, Government Code, as added by Chapter 198, Acts of the 78th Legislature, Regular Session, 2003, before the effective date of this section, the commission may not renew the contract until the commission has:

(1) fully developed and tested the Texas Integrated Eligibility and Redesign System;

(2) determined that the system is operational for all programs with respect to which it will be used; and

(3) submitted the report required by Subsection (c) of this section.

(b) In determining whether the Texas Integrated Eligibility and Redesign System is operational for all programs with respect to which it will be used as required by Subsection (a)(2) of this section, the Health and Human Services Commission shall consider whether the system:

(1) has been fully tested and determined to be operational with respect to all programs the system is designed to serve;

(2) has been tested and shown to be operational under caseloads that are at least equal to 75 percent of the full statewide caseloads of the programs the system is designed to serve; and

(3) when tested under the full statewide caseloads of the programs the system is designed to serve, meets or exceeds the levels of timeliness and accuracy provided by the current automations systems that the system is designed to replace.

(c) If the Health and Human Services Commission determines that the Texas Integrated Eligibility and Redesign System is operational for all programs with respect to which it will be used, the executive commissioner of the commission shall submit to the governor and the presiding officers of the standing committees of the senate and house of representatives having primary jurisdiction over health and human services a report stating that the criteria specified by Subsection (b) of this section have been met and providing evidence of that fact. If, at the time the report is submitted, the legislature is not convened in a regular or special session, the executive commissioner shall also submit the report to the Legislative Budget Board.

(d) This section takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this section takes effect September 1, 2005.

Amendment No. 5 was withdrawn.

A record vote was requested.

CSHB 1516, as amended, was passed to engrossment by (Record 633): 134 Yeas, 1 Nays, 2 Present, not voting.

Yeas — Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Dunnam; Dutton; Eiland; Eissler; Elkins; Escobar; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Goodman; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Orr; Otto; Paxton; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee;

Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Davis, Y.

Present, not voting — Mr. Speaker(C); Dukes.

Absent, Excused — Allen, A.; Edwards; Hodge.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Farabee; Gonzalez Toureilles; Goolsby; Homer; Hope; Olivo; Peña.

STATEMENT OF VOTE

When Record No. 633 was taken, I was in the house but away from my desk. I would have voted yes.

Olivo

I was shown voting yes on Record No. 633. I intended to vote no.

Thompson

POSTPONED BUSINESS

The following bills were laid before the house as postponed business:

CSHB 2329 ON SECOND READING

(by Morrison)

CSHB 2329, A bill to be entitled An Act relating to authorizing the issuance of revenue bonds or other obligations to fund capital projects at public institutions of higher education.

CSHB 2329 was read second time earlier today and was postponed until this time.

Amendment No. 1

Representative F. Brown offered the following amendment to **CSHB 2329**:

In **CSHB 2329** amend as follows and renumber accordingly:

(1) On Page 2, line 25, strike, "and".

(2) On Page 2, line 17, strike subsection (6) and insert the following new subsection:

(6) Texas A&M University-Kingsville:

(a) \$80,000,000, System Center San Antonio for educational related facilities at the location proposed for Texas A&M University-San Antonio;

(b) \$26,000,000 South Texas Natural Resource Management facilities;

(c) \$22,000,000 Campus Wide Improvement; and

(d) \$6,000,000 Music Building Addition.

(3) On Page 3, amend section 1, by adding the following new subsections:

(10) Texas A&M University, \$100,000,000 for the Emerging Technologies and Economic Development Building;

(11) Texas A&M University at Galveston, \$50,000,000 for a new science building; and

(12) Texas A&M International University:

(a) \$26,000,000 for the student success center;

(b) \$10,000,000 for border center for homeland security;

(c) \$8,000,000 for infrastructure development; and

(d) \$4,000,000 for support services facility.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Naishtat offered the following amendment to **CSHB 2329**:

Amend **CSHB 2329** (House Committee Printing) on page 4, line 5, by striking "campus fire and life safety upgrades and for".

Amendment No. 2 was adopted.

Amendment No. 3

Representative Hopson offered the following amendment to **CSHB 2329**:

Amend **CSHB 2329** (House committee printing) on page 6, line 6, by striking "\$34,400,000" and substituting "\$32,400,000".

Amendment No. 3 was adopted.

Amendment No. 4

Representative Branch offered the following amendment to **CSHB 2329**:

Amend **CSHB 2329** on page 5, line 10, by striking "\$42" and substituting "\$63".

Amendment No. 4 was adopted.

Amendment No. 5

Representative Berman offered the following amendment to **CSHB 2329**:

Amend **CSHB 2329** as follows:

(1) On page 6, line 7, strike "and".

(2) On page 6, line 9, strike the period and substitute "; and".

(3) On page 6, between lines 9 and 10, insert the following:

(15) The University of Texas at Tyler, \$51 million for educational and support facilities.

Amendment No. 5 was adopted.

Amendment No. 6

Representative Peña offered the following amendment to **CSHB 2329**:

Amend **CSHB 2329** on page 4 by striking lines 20-23 and substituting the following:

(6) The University of Texas–Pan American:

(A) \$7,500,000 for The University of Texas–Pan American South Texas College Multi-Institution Teaching Center to address the need for facilities in the Rio Grande Valley high growth corridor; and

(B) \$29,900,000 for the construction and renovation of academic infrastructure to accommodate student and faculty population growth;

Amendment No. 6 was adopted.

Amendment No. 7

Representative Isett offered the following amendment to **CSHB 2329**:

Amend **CSHB 2329** as follows:

(1) On page __, lines __ & __, strike "the Texas Tech University Health Sciences Center," and substitute "projects".

(2) On page __, strike lines __ through __, and insert the following:

(1) Texas Tech University Health Sciences Center:

(A) \$13,500,000 for educational and related facilities in the City of Midland for the Permian Basin OB-GYN residency program, physician's assistant program and the Internal Medicine residency program;

(B) \$9,000,000 for the medical science building for the Texas Tech University Health Sciences Center in El Paso; and

(C) \$11,250,000 for the pharmacy education building expansion for the Texas Tech University Health Sciences Center in Amarillo; and

(2) Texas Tech University, \$56,000,000 for educational and related facilities including a College of Business building, renovation of classroom building and addition to the School of Law building.

Amendment No. 7 was adopted.

CSHB 2329, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

MAJOR STATE CALENDAR (consideration continued)

CSHB 164 ON SECOND READING

(by Berman, Flynn, Phillips, Madden, Driver, et al.)

CSHB 164, A bill to be entitled An Act relating to the civil and criminal consequences of engaging in certain conduct related to the manufacture of methamphetamine and to the distribution and retail sales of pseudoephedrine; providing penalties.

Amendment No. 1

Representative Berman offered the following amendment to **CSHB 164**:

Amend **CSHB 164** by adding the following SECTION to ARTICLE 2 of the bill, appropriately numbered, and renumbering existing SECTIONS of that ARTICLE accordingly:

SECTION 2. Section 481.077(1), Health and Safety Code, is amended to read as follows:

(1) This section does not apply to the sale or transfer of any compound, mixture, or preparation containing ~~a nonnarcotic product that:~~

~~[(1) includes:~~

~~[(A)] ephedrine;~~

~~[(B)] pseudoephedrine, or;~~

~~[(C)] norpseudoephedrine that is in liquid, liquid capsule, or gel capsule form and that contains at least one active ingredient other than ephedrine, pseudoephedrine, or norpseudoephedrine;~~

~~[(D)] phenylpropanolamine; and~~

~~[(2) is sold with a prescription or over the counter in accordance with a federal statute or rule].~~

Amendment No. 1 was adopted.

CSHB 164, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Hupp, Naishtat, and Rodriguez recorded voting no.)

MESSAGE FROM THE SENATE

A message from the senate was received at this time (see the addendum to the daily journal, Messages from the Senate, Message No. 6).

HB 3592 - PERMISSION TO INTRODUCE

Representative B. Keffer requested permission to introduce and have placed on first reading **HB 3592**.

Permission to introduce was granted.

CSHB 1294 ON SECOND READING

(by Rose)

CSHB 1294, A bill to be entitled An Act relating to permissive interlocutory appeals in civil actions.

CSHB 1294 - POINT OF ORDER

Representative Eiland raised a point of order against further consideration of **CSHB 1294** under Rule 4, Section 33(d) of the House Rules on the grounds that the bill was laid out before the fiscal note in committee.

The speaker overruled the point of order.

Amendment No. 1

Representative Rose offered the following amendment to **CSHB 1294**:

Amend **CSHB 1294** (Committee Printing) as follows:

(1) On page 1, line 7, between "action" and "in", insert ", other than a suit affecting the parent-child relationship or a suit for divorce,".

(2) On page 1, line 20, strike "In" and substitute "In a suit affecting the parent-child relationship, a suit for divorce, or in".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Rose offered the following amendment to **CSHB 1294**:

Amend **CSHB 1294** (Committee Printing) on page 2, line 11, after the period, by inserting:

If the trial or appellate court orders a stay of proceedings in the trial court, the stay expires on the date set by the court in accordance with this section. The stay must expire not later than the 18-month anniversary of the date on which the trial court signs the interlocutory order being appealed and may not be extended beyond that date. If more than one interlocutory appeal is allowed in the same civil action under Subsection (d) or (d-1), the cumulative length of all stays granted under this section may not exceed 18 months unless otherwise agreed by the parties.

AMENDMENT NO. 2 - DEBATE

REPRESENTATIVE LEIBOWITZ: Patrick, I just have a couple of things I want to clear up with you. What you're proposing, isn't this already being done? By that I mean, aren't there already litigants who have a concern over an issue, they make the judge aware of, they ask the judge to make a summary judgment so they can have the issue resolved on appeal before they go to the time and the expense and the cost of a full-blown trial?

REPRESENTATIVE ROSE: In some limited cases. In Section 51 of the Texas Civil Practice and Remedies Code, unlike the federal rules, we can't. Unless both parties agree to move to answer at the appellate court level these controlling questions of law whose answer is determinative of the final termination of the case. We can't do that today. **HB 1294** will allow us to.

LEIBOWITZ: Okay, let's say I'm in a case and I believe the judge has made an error. As matter of law, I'm entitled to certain relief. Don't I have mandamus relief available to me today that I can ask an appellate court interlocutory to address the issue we're addressing from a mandamus perspective?

ROSE: Yes, Mr. Leibowitz, but only if it's a matter where the judge exercised his or her discretion first and, second, if it's an issue that you do not have adequate remedy at law for. Currently, Texas courts have ruled that an adequate remedy for you, defendant Leibowitz, or you, plaintiff Leibowitz, does exist at the appellate level after the termination of the trial court case. That's the problem and that's what we're trying to fix. If we can get these answers to these questions that help/hold case hinges on, answered early, pretrial, we can avoid the expense and delay of trials moving to verdict and concluding these cases sooner.

LEIBOWITZ: Would you agree with me that there are times when the appellate court acts on a mandamus petition, do they not?

ROSE: Yes, sir.

LEIBOWITZ: And sometimes, literally in a matter of hours, you get a response back from the appellate court stating the proceedings, would you not agree?

ROSE: Yes, those are accelerated appeals.

LEIBOWITZ: So is there anywhere in your bill where you exclude from what you're trying to accomplish here that those situations that are already covered by mandamus?

ROSE: This bill keeps in the two principle filters that are in Section 51 of the Civil Practices and Remedies Code today. The first is that there exists a controlling question of law as to which there is substantial ground for difference of opinion. And, two, an immediate appeal from the order made materially, advances the ultimate termination of the litigation. Those two, very surgical, very specific criteria, must be met and then agreed upon by the trial judge, and then by two of the three appellate judges that are reviewing whether or not to accept or appeal the order. Only if those criteria are met, can this interlocutory appeal be granted.

LEIBOWITZ: Yes, sir. I understand what you're saying. But, why not carve out, if the mandamus relief already existed, why not carve out of your bill that which is already available by way of relief via a mandamus? Why not just carve that out, as opposed to causing it to be more confusing?

ROSE: This actually adds great clarity to the code and I think efficiency to trial work here in Texas.

LEIBOWITZ: So you are not willing to accept an amendment that carves out which exists, for probably going back to English Common Law.

ROSE: The intent of this legislation, and you can add this to the journal if you like, is not to incentive plaintiff or defendants, either one from making interlocutory order in lieu of mandamus motions. That is not the intent. The intent here is to provide a situation, a scenario, relief for a plaintiff or defendant if there is a controlling question of law and the answer on appeal on the controlling question of law by the appellate court, can materially advance the position of the case. If those two cases exist, if those two circumstances exist, and three judges sign off on those two filters existing; then and only then could the interlocutory order be granted.

LEIBOWITZ: Okay, am I correct in understanding that the way that your bill is drafted, it covers everything across the board? It's not just a personal injury case, it's business litigation, it's a civil action. Is that correct?

ROSE: Yes, but working with Toby Goodman today, I'm thankful of his input and his efforts. I'm going to offer an amendment that Mr. Goodman brought to me that excludes family law proceedings from this change in **HB 1294**. This is only for civil cases, excluding family law.

LEIBOWITZ: Okay. If you have a neighbor who has a legitimate claim against IBM, a business claim, or legitimate claim against Wal-Mart and the amount in controversy exceeds \$100,000, your bill is going to—and he could be 110

percent in his claim, your bill is potentially going to put off his opportunity to get to his day in court, right now it's open-ended. I believe that there's an 18-month amendment coming down the pike.

ROSE: There is and I'd be glad to talk about that but the answer to your question is simply no. Only in a very limited case, when for example there is a question of whether or not IBM has liability for that cause of action that your neighbor brought to them in court. Only in a case where that question of law exists, the disposition of which on an appellate level determines the final termination of the case—only in that circumstance would that appeal be granted and if the trial judge certifies yes, that is the case, and two of the three appellate court judges agree.

LEIBOWITZ: As things stand right now, I just have two more questions for you. As things stand right now, your bill is open-ended in terms of time limits.

ROSE: Yes, but working with Mr. Hartnett, thanks to his leadership, his help and other members on the floor, I have an amendment that I'm going to offer. In Section F of the bill—I don't know if you have it in front of you David—Section F is permissive if the parties agree, it's allowed. But also if the judge orders it during interlocutory appeal, that stays under the amendment that I'll be offering and explaining here shortly. It is limited to 18 months. And most importantly—and this is the effort of our most recent discussion—that stay of 18 months is the entirety of the stay that can be granted in that court case, no matter how many interlocutory orders are issued.

LEIBOWITZ: I may have a few more questions, but I'm going to yield.

REMARKS ORDERED PRINTED

Representative Leibowitz moved to print remarks between Representative Rose and Representative Leibowitz.

The motion prevailed.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Rose offered the following amendment to **CSHB 1294**:

Amend **CSHB 1294** (Committee Printing) on page 3, line 7, by striking "September 1, 2005" and substituting "January 1, 2006".

Amendment No. 4

Representative Eiland offered the following amendment to Amendment No. 3:

Amend the Rose Amendment by striking lines 1-3 and substituting the following:

Amend **CSHB 1294** (Committee Printing) by striking page 2, line 27 through page 3, line 6, and substituting the following:

SECTION 2. The change in law made by this Act does not apply to an action filed before the effective date of this Act. An action filed before the effective date of this Act is governed by the law in effect immediately before that date, and that law is continued in effect for that purpose.

Representative Rose moved to table Amendment No. 4.

A record vote was requested.

The motion to table was lost by (Record 634): 53 Yeas, 79 Nays, 4 Present, not voting.

Yeas — Allen, R.; Anderson; Berman; Blake; Bohac; Bonnen; Brown, B.; Brown, F.; Callegari; Cook, B.; Cook, R.; Crownover; Dawson; Delisi; Denny; Eissler; Flynn; Gattis; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Howard; Hupp; Isett; Jones, D.; Keffer, B.; Keffer, J.; Laubenberg; Madden; Merritt; Miller; Morrison; Nixon; Orr; Otto; Paxton; Phillips; Reyna; Riddle; Rose; Smith, W.; Solomons; Straus; Taylor; Truitt; Van Arsdale; West; Woolley; Zedler.

Nays — Alonzo; Anchia; Bailey; Branch; Burnam; Campbell; Casteel; Castro; Chavez; Coleman; Crabb; Davis, J.; Davis, Y.; Deshotel; Dunnam; Dutton; Eiland; Elkins; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Herrero; Hilderbran; Hochberg; Homer; Hopson; Hughes; Hunter; Jones, J.; Keel; King, P.; King, T.; Krusee; Kuempel; Leibowitz; Luna; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Moreno, P.; Mowery; Naishtat; Oliveira; Olivo; Peña; Puente; Quintanilla; Raymond; Ritter; Rodriguez; Seaman; Smith, T.; Smithee; Solis; Strama; Swinford; Talton; Thompson; Turner; Uresti; Veasey; Villarreal; Vo; Wong.

Present, not voting — Mr. Speaker(C); Chisum; Corte; Jackson.

Absent, Excused — Allen, A.; Edwards; Hodge.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Baxter; Driver; Dukes; Hill; Hope; Laney; Noriega, M.; Pickett.

STATEMENT OF VOTE

When Record No. 634 was taken, I was in the house but away from my desk. I would have voted yes.

Baxter

Amendment No. 4 was adopted.

Amendment No. 3, as amended, was adopted.

Amendment No. 5

Representative Eiland offered the following amendment to **CSHB 1294**:

Amend **CSHB 1294** as follows:

(1) On page 1, line 7, between "action" and "in", insert "other than a suit under general maritime law or under the Jones Act".

(2) On page 1, line 20, strike "In" and substitute "In a suit under general maritime law or under the Jones Act".

Amendment No. 5 was adopted.

Amendment No. 6

Representative Eiland offered the following amendment to **CSHB 1294**:

Amend **CSHB 1294** (Committee Printing) as follows:

(1) On page 1, line 14, between "law" and "as" insert ", and not a mixed question of law and fact.".

(2) On page 1, line 15, strike "and".

(3) On page 1, between lines 15 and 16, insert "(2) the interlocutory order does not involve the admissibility of expert testimony; and"

(4) On page 1, line 16, strike "(2)" and substitute "(3) [(2)]".

Representative Rose moved to table Amendment No. 6.

A record vote was requested.

The motion to table was lost by (Record 635): 69 Yeas, 70 Nays, 2 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, F.; Callegari; Campbell; Chisum; Cook, B.; Cook, R.; Corte; Crownover; Dawson; Delisi; Denny; Eissler; Farabee; Flynn; Gattis; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hill; Homer; Hopson; Howard; Hupp; Isett; Jones, D.; Keel; Keffer, B.; Keffer, J.; Kuempel; Laubenberg; Madden; Merritt; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Reyna; Riddle; Ritter; Rose; Smith, W.; Solomons; Straus; Swinford; Taylor; Truitt; Van Arsdale; Villarreal; West; Woolley; Zedler.

Nays — Alonzo; Anchia; Bailey; Brown, B.; Burnam; Casteel; Castro; Chavez; Coleman; Crabb; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Elkins; Escobar; Farrar; Flores; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Guillen; Herrero; Hilderbran; Hochberg; Hughes; Hunter; Jones, J.; King, P.; King, T.; Krusee; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Seaman; Smith, T.; Smithee; Solis; Strama; Talton; Thompson; Turner; Uresti; Veasey; Vo; Wong.

Present, not voting — Mr. Speaker(C); Jackson.

Absent, Excused — Allen, A.; Edwards; Hodge.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Driver; Goolsby; Hope.

A record vote was requested.

Amendment No. 6 failed of adoption by (Record 636): 64 Yeas, 72 Nays, 3 Present, not voting.

Yeas — Alonzo; Anchia; Bailey; Brown, B.; Burnam; Casteel; Castro; Chavez; Coleman; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Escobar; Farrar; Flores; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Tourelles; Guillen; Herrero; Hochberg; Hughes; Hunter; Jones, J.; King, P.; King, T.; Krusee; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Seaman; Smith, T.; Smithee; Solis; Strama; Talton; Thompson; Turner; Uresti; Veasey; Vo.

Nays — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, F.; Callegari; Campbell; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Dawson; Delisi; Denny; Eissler; Elkins; Farabee; Flynn; Gattis; Goodman; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hegar; Hill; Homer; Hopson; Howard; Hupp; Isett; Jones, D.; Keel; Keffer, B.; Keffer, J.; Kuempel; Laubenberg; Madden; McCall; Merritt; Miller; Morrison; Mowery; Nixon; Otto; Paxton; Phillips; Reyna; Riddle; Ritter; Rose; Smith, W.; Solomons; Straus; Swinford; Taylor; Truitt; Van Arsdale; Villarreal; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C); Hartnett; Jackson.

Absent, Excused — Allen, A.; Edwards; Hodge.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Driver; Goolsby; Hilderbran; Hope; Orr.

STATEMENT OF VOTE

When Record No. 636 was taken, my vote failed to register. I would have voted no.

Hilderbran

Amendment No. 7

Representative T. Smith offered the following amendment to **CSHB 1294**:

Amend **CSHB 1294** on page 1, line 14, between "law" and "as to" by inserting "that is determinative of the outcome and".

Amendment No. 7 was adopted.

Amendment No. 8

Representative Hughes offered the following amendment to **CSHB 1294**:

Amend **CSHB 1294** (Committee Printing) as follows:

(1) On page 1, line 15, strike "and".

(2) On page 1, lines 17-19, strike "~~and~~
[~~(3) the parties agree to the order~~]"

and substitute "; and

(3) the interlocutory order is not reviewable by petition for writ of mandamus [~~parties agree to the order~~]".

(3) On page 1, line 24, strike "(2)" and substitute "(3)".

Representative Rose moved to table Amendment No. 8.

A record vote was requested.

The motion to table was lost by (Record 637): 63 Yeas, 70 Nays, 3 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Callegari; Campbell; Chisum; Cook, B.; Corte; Crabb; Crownover; Dawson; Delisi; Denny; Eissler; Elkins; Gattis; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Harper-Brown; Hegar; Hill; Hopson; Hupp; Isett; Jones, D.; Keffer, B.; Keffer, J.; Kuempel; Laubenberg; Madden; McCall; Merritt; Miller; Morrison; Mowery; Nixon; Orr; Otto; Paxton; Phillips; Reyna; Riddle; Ritter; Rose; Smith, W.; Straus; Swinford; Taylor; Thompson; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Alonzo; Anchia; Bailey; Brown, B.; Brown, F.; Burnam; Casteel; Castro; Chavez; Coleman; Cook, R.; Davis, J.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Guillen; Hardcastle; Herrero; Hilderbran; Hochberg; Homer; Hughes; Hunter; Keel; King, P.; King, T.; Krusee; Laney; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, P.; Naishtat; Noriega, M.; Oliveira; Olivo; Peña; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Seaman; Smith, T.; Smithee; Solis; Strama; Talton; Turner; Uresti; Veasey; Vo.

Present, not voting — Mr. Speaker(C); Hartnett; Jackson.

Absent, Excused — Allen, A.; Edwards; Hodge.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Driver; Flynn; Goolsby; Hope; Howard; Jones, J.; Solomons; Villarreal.

STATEMENT OF VOTE

When Record No. 637 was taken, my vote failed to register. I would have voted yes.

Flynn

Amendment No. 8 was adopted.

A record vote was requested.

CSHB 1294, as amended, was passed to engrossment by (Record 638): 81 Yeas, 56 Nays, 2 Present, not voting.

Yeas — Allen, R.; Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, F.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Eissler; Elkins; Farabee; Flynn; Gattis; Goodman; Griggs; Grusendorf; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Homer; Hopson; Howard; Hunter; Hupp; Isett; Jones, D.; Keffer, B.; Keffer, J.; Kuempel; Laubenberg; Madden; McCall; Merritt; Miller; Morrison; Mowery;

Nixon; Oliveira; Orr; Otto; Paxton; Phillips; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Solomons; Strama; Straus; Swinford; Taylor; Truitt; Van Arsdale; West; Wong; Woolley; Zedler.

Nays — Alonzo; Anchia; Bailey; Brown, B.; Burnam; Castro; Chavez; Coleman; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Escobar; Farrar; Flores; Frost; Gallego; Geren; Giddings; Gonzales; Gonzalez Toureilles; Guillen; Herrero; Hochberg; Hughes; Jones, J.; Keel; King, P.; King, T.; Krusee; Laney; Leibowitz; Martinez Fischer; McClendon; McReynolds; Menendez; Moreno, P.; Naishtat; Noriega, M.; Olivo; Peña; Puente; Quintanilla; Raymond; Rodriguez; Smithee; Solis; Talton; Thompson; Turner; Uresti; Veasey; Villarreal; Vo.

Present, not voting — Mr. Speaker(C); Jackson.

Absent, Excused — Allen, A.; Edwards; Hodge.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Goolsby; Hope; Luna; Martinez; Pickett.

STATEMENTS OF VOTE

I was shown voting no on Record No. 638. I intended to vote yes.

Geren

When Record No. 638 was taken, my vote failed to register. I would have voted no.

Luna

When Record No. 638 was taken, my vote failed to register. I would have voted no.

Martinez

I was shown voting no on Record No. 638. I intended to vote yes.

Villarreal

CSHB 1890 ON SECOND READING (by Smithee and Escobar)

CSHB 1890, A bill to be entitled An Act relating to the operation and funding of the Texas Windstorm Insurance Association, including funding of coverage for certain catastrophic events through the establishment of a revenue bond program.

Amendment No. 1

Representative Smithee offered the following amendment to **CSHB 1890**:

Amend **CSHB 1890** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 4(d), Article 21.49, Insurance Code, is amended to read as follows:

(d) On dissolution of the association, all assets of the association, including the unexpended and unobligated balance of the catastrophe reserve trust fund as of the date of the dissolution, revert to this state.

SECTION 2. Section 5, Article 21.49, Insurance Code, is amended by amending Subsections (g), (h), (i), (j), and (l) and adding Subsections (n), (o), and (p) to read as follows:

(g) The board of directors of the Association is responsible and accountable to the commissioner ~~[Board]~~. The board of directors is composed of nine members appointed by the commissioner as follows:

(1) two ~~[five representatives of different insurers who are]~~ members must be residents of first tier coastal counties, one of whom must be a licensed insurance agent ~~[of the Association who shall be elected by members as provided in the plan of operation];~~

(2) four members must be representatives of insurers who are members of the Association, who may reside anywhere in this state ~~[two representatives of the general public, nominated by the office of public insurance counsel, who, as of the date of the appointment, reside in a catastrophe area and who are policyholders, as of the date of the appointment, of the Association];~~ and

(3) three members must be residents of counties other than first tier coastal counties, at least one of whom must be a licensed insurance agent ~~[two local recording agents licensed under this Code with demonstrated experience in the Association, and whose principal offices, as of the date of the appointment, are located in a catastrophe area].~~

(h) Members of the board of directors of the Association serve two-year ~~[three year]~~ staggered terms, with the terms of three members expiring on the third Tuesday of March of each year. A member of the board of directors serves at the pleasure of the commissioner and may be removed by the commissioner before the expiration of the member's term. ~~[A person may hold a seat on the board of directors for not more than three consecutive full terms, not to exceed nine years.]~~

(i) The persons appointed as provided by Subsection (g) ~~[Subsections (g)(2) and (g)(3)]~~ of this section must have demonstrated business, insurance, or financial experience to be eligible for appointment ~~[be from different counties].~~

(j) The board of directors of the Association shall select one member of the board of directors to serve as presiding officer of the board of directors. The presiding officer serves at the pleasure of the board of directors and is entitled to vote on all matters before the board of directors. The board of directors ~~[of the Association]~~ shall elect other officers of the board of directors ~~[an executive committee consisting of a chairman, vice chairman, and secretary treasurer]~~ from its membership. ~~[At least one of those officers must be a member appointed under Subsection (g)(2) or Subsection (g)(3) of this section.]~~

(l) If an occurrence or series of occurrences within the defined catastrophe area results in insured losses that result in payment of losses under Section 19 of this article ~~[tax credits under Section 19(4) of this article in a single calendar year]~~, the Association shall immediately notify the commissioner ~~[Board]~~ of that fact. The commissioner ~~[Board]~~ on receiving notice shall immediately notify the

Governor and appropriate committees of each house of the Legislature of the amount of insured losses eligible for payment under Section 19 [~~tax credits under Section 19(4)~~] of this article.

(n) The board of directors shall report annually to the governor, the lieutenant governor, and the speaker of the house of representatives regarding:

(1) the solvency of the Association;

(2) the sufficiency of the Association's reserves;

(3) the sufficiency of the rates charged for insurance coverage through the Association, including:

(A) an analysis of any difference between rates actually being charged and actuarially sufficient rates; and

(B) if there is a difference, the reasons for that difference; and

(4) any outstanding risks to the Association and the members of the Association.

(o) As an exception to Chapter 551, Government Code, and other law, members of the board of directors may meet by telephone conference call, videoconference, or other similar telecommunication method. The board of directors may use telephone conferences or other similar telecommunication methods for purposes of establishing a quorum, for purposes of voting, and for any other meeting purpose in accordance with this subsection and Subsection (p). This subsection applies without regard to the subject matters discussed or considered by the members of the board of directors at the meeting.

(p) A meeting held by use of telephone conference call, videoconference, or other similar telecommunication method:

(1) is subject to the notice requirements applicable to other meetings;

(2) must specify in the notice of the meeting the location of the meeting;

(3) must be audible to the public at the location specified in the notice of the meeting as the location of the meeting; and

(4) must provide two-way audio communication between all members of the board of directors attending the meeting during the entire meeting, and if the two-way audio communication link with members attending the meeting is disrupted at any time so that a quorum of the board of directors is no longer participating in the meeting, the meeting may not continue until the two-way audio communication link is reestablished.

SECTION 3. Article 21.49, Insurance Code, is amended by adding Section 5C to read as follows:

Sec. 5C. GENERAL POWERS AND DUTIES OF BOARD OF DIRECTORS. (a) The board of directors shall:

(1) recommend rates to the department in the manner provided by Section 8 of this article for insurance coverage provided by the Association; and

(2) determine:

(A) coverage limits;

(B) applicable deductibles; and

(C) any premium surcharges to be assessed for noncompliance with applicable building codes.

(b) In exercising powers and duties under this article, the primary goal of the board of directors shall be to make the Association financially sound.

SECTION 4. Section 8, Article 21.49, Insurance Code, is amended to read as follows:

Sec. 8. RATES, RATING PLANS AND RATE RULES APPLICABLE. (a) The Association shall file with the Commissioner for approval the proposed rates and supplemental rate information to be used in connection with the issuance of policies or endorsements. Rates shall be reasonable, adequate, not unfairly discriminatory, and nonconfiscatory as to any class of insurer. In determining rates, the Association and the Commissioner shall use methods based on sound actuarial principles comparable to the methods used by insurers in the voluntary market ~~[every manual of classifications, rules, rates which shall include condition charges, every rating plan, and every modification of any of the foregoing which it proposes to use]~~. Every such filing shall indicate the character and the extent of the coverage contemplated and shall be accompanied by the policies and endorsements forms proposed to be used, which said forms and endorsements may be designed specifically for use by the Association and without regard to other forms filed with, approved by, or promulgated by the department ~~[Board]~~ for use in this State. The Association may make recommendations to the Commissioner that would result in a reduction of coverages or an increase in an applicable deductible if any resultant reduction in coverages or increase in deductibles is accompanied by proposed rate credits. After notice and a hearing, if a hearing is requested by any person not later than the 10th day after the date of the notice, the Commissioner may accept, modify, or reject a recommendation made by the Association under this subsection. Chapter 40 ~~[Article 1.33B]~~ of this code does not apply to an action taken under this subsection. If the Commissioner modifies or rejects a proposed rate recommended under this subsection, the Commissioner shall make specific written findings as to how the proposed rate fails to comply with the standards of this Act.

(b) ~~(e)~~ Any filing made by the Association pursuant hereto shall be submitted to the department ~~[Board]~~ and as soon as reasonably possible after the filing has been made the commissioner ~~[Board]~~ shall, in writing, approve, modify, or disapprove the same; provided that any filing shall be determined approved unless modified or disapproved within 30 days after date of filing.

(c) ~~(d)~~ If at any time the commissioner ~~[Board]~~ finds that a filing so approved no longer meets the requirements of this Act, the commissioner ~~[#]~~ may, after 10 days' notice and a hearing if a hearing is requested by any person not later than the 10th day after the date of the notice ~~[held on not less than 20 days' notice to the Association specifying the matters to be considered at such hearing]~~, issue an order withdrawing ~~[its]~~ approval ~~[thereof]~~. Said order shall specify in what respects the commissioner ~~[Board]~~ finds that such filing no longer meets the requirements of this Act and shall be effective not less than 30 days after its issuance.

(d) ~~(e)~~ All rates shall be made in accordance with the following provisions:

~~[(1) Due consideration shall be given to the past and prospective loss experience within and outside the State of hazards for which insurance is made available through the plan of operation, if any, to expenses of operation including acquisition costs, to a reasonable margin for profit and contingencies, and to all other relevant factors, within and outside the State.~~

~~[(2) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in such risks on the basis of any or all of the factors mentioned in the preceding paragraph. Such rates may include rules for classification of risks insured hereunder and rate modifications thereof. All such provisions, however, as respects rates, classifications, standards and premiums shall be without prejudice to or prohibition of provision by the Association for consent rates on individual risks if the rate and risk are acceptable to the Association and as is similarly provided for, or as is provided for, in Article 5.26(a), Texas Insurance Code, and this provision or exception on consent rates is irrespective of whether or not any such risk would otherwise be subject to or the subject of a provision of rate classification or eligibility.~~

~~[(3) Rates shall be reasonable, adequate, not unfairly discriminatory, and nonconfiscatory as to any class of insurer.~~

~~[(4)] Commissions paid to agents shall be reasonable, adequate, not unfairly discriminatory and nonconfiscatory.~~

~~(e) [(f)]~~ For the purpose of this Act the applicant under Section 6(a) hereof shall be considered to have consented to the appropriate rates and classifications authorized by this Act irrespective of any and all other rates or classifications.

~~(f) [(g)]~~ All premiums written and losses paid under this Act as appropriate shall be included in applicable classifications for general rate making purposes.

~~(g)(1) [(h)(1)]~~ Each rate established by the commissioner in accordance with this section must be uniform throughout the first tier of coastal counties.

(2) Not later than August 15 of each year, the Association shall file with the department for approval by the commissioner a proposed manual rate for all types and classes of risks written by the Association. ~~[Chapter 40 of this code does not apply to a filing made under this subsection or a department action with respect to the filing.]~~

(3) Before approving or disapproving a filing, or modifying a filing, the commissioner shall provide all interested persons a reasonable opportunity to review the filing, obtain copies of the filing on payment of any legally required copying cost, and submit to the commissioner written comments or information related to the filing.

(4) If requested, the ~~[The]~~ commissioner shall schedule an open meeting not later than the 45th day after the date on which the department receives the filing at which interested persons may present written or oral comments relating to the filing. An open meeting under this subdivision is subject to Chapter 551, Government Code, but is not a contested case hearing under Chapter 2001, Government Code.

(5) The department shall file with the Texas Register notice that a filing has been made under Subdivision (2) of this subsection not later than the seventh day after the date the filing is received by the department. The notice must include information relating to:

(A) the availability of the filing for public inspection at the department during regular business hours and the procedures for obtaining copies of the filing;

(B) procedures for making written comments related to the filing;
and

(C) the time, place, and date of the open meeting scheduled under Subdivision (4) of this subsection at which an interested person may submit either written or oral comments relating to the filing.

(6) After the conclusion of the open meeting, the commissioner shall approve or disapprove or modify the filing in writing on or before November 15 of the year in which the filing is made or the filing is deemed approved. If the commissioner disapproves a filing, the commissioner shall state in writing the reasons for the disapproval and the criteria to be met by the Association to obtain approval. The Association may file with the commissioner, not later than 30 days after the date on which the Association receives the commissioner's written disapproval, an amended filing bringing the filing into conformity with all criteria stated in the commissioner's written disapproval.

(7) Before approving or disapproving an amended filing, the commissioner shall provide all interested persons a reasonable opportunity to review the amended filing, obtain copies of the amended filing on payment of any legally required copying cost, and submit to the commissioner written comments or information related to the amended filing in the manner provided by Subdivision (3) of this subsection~~[- and may hold a hearing not later than the 20th day after the date on which the department receives the amended filing in the manner provided by Subdivision (4) of this subsection. Not later than the 10th day after the date on which the hearing on the amended filing is concluded, the commissioner shall approve or disapprove the amended filing].~~ Within 30 days after the amended filing is received, the commissioner shall approve without changes, approve as modified by the commissioner, or disapprove an amended filing or it is deemed approved. ~~[The requirements imposed under Subdivisions (5) and (6) of this subsection apply to a hearing conducted under this subdivision.]~~

(8) In conjunction with the review of a filing or amended filing, the commissioner may request the Association to provide additional supporting information relating to the filing or amended filing, and any interested person may file a written request with the commissioner for additional supporting information relating to the filing or amended filing. A request under this subdivision must be reasonable and must be directly related to the filing or amended filing. The commissioner shall submit to the Association all requests for additional supporting information made under this subdivision for the commissioner's use and the use of any interested person. Unless a different period is requested by the Association and approved by the commissioner, the

Association shall provide the information to the commissioner not later than the fifth day after the date on which the written request for additional supporting information is delivered to the Association. The department shall notify an interested person who has requested additional information of the availability of the information not later than one business day after the date on which the commissioner receives the information from the Association.

(9) A rate established and authorized by the commissioner under this subsection may not reflect an average rate change that is more than 10 percent higher or lower than the rate for commercial or 10 percent higher or lower than the rate for noncommercial windstorm and hail insurance in effect on the date the filing is made. The rate may not reflect a rate change for an individual rating class that is 15 percent higher or lower than the rate for that individual class in effect on the date the filing is made. The commissioner may~~[-after notice and hearing,-]~~ suspend this subdivision upon a finding that a catastrophe loss or series of occurrences resulting in losses in the catastrophe area justify a need to assure rate adequacy in the catastrophe area and also justify a need to assure availability of insurance outside the catastrophe area.

(10) If valid flood or rising water insurance coverage exists and is maintained on any risk being insured in the pool, the commissioner may provide for a rate and reduction in rate of premium as may be appropriate.

(11) ~~[The catastrophe element used to develop rates under this Act applicable to risks written by the Association shall be uniform throughout the seacoast territory. The catastrophe element of the rates must be developed using:~~

~~[(A) 90 percent of both the monoline extended coverage loss experience and related premium income for all insurers, other than the Association, for covered property located in the seacoast territory using not less than the most recent 30 years of experience available; and~~

~~[(B) 100 percent of both the loss experience and related premium income for the Association for covered property using not less than the most recent 30 years of experience available.~~

~~[(12) The noncatastrophe element of the noncommercial rates must be developed using:~~

~~[(A) 90 percent of both the monoline extended coverage loss experience and related premium income for all insurers, other than the Association, for covered property located in the catastrophe area of the seacoast territory using the most recent 10 years of experience available; and~~

~~[(B) 100 percent of both the loss experience and related premium income for the Association for covered property using the most recent 10 years of experience available.~~

~~[(13) The noncatastrophe element of the commercial rates must be developed using 100 percent of both the loss experience and related premium income for the Association for covered property using the most recent 10 years of experience available.~~

~~[(14) Surcharges collected in the past and used in the development of current rates may not be excluded from future rate development as long as those surcharges were collected during the experience period considered by the commissioner.~~

~~[(15)]~~ Not earlier than March 31 of the year before the year in which a filing is to be made, the department shall value the loss and loss adjustment expense data to be used for the filing.

(12) ~~[(16)]~~ Not later than June 1 of each year, the department shall provide the experience data to be used in establishing the rates under this subsection in that year to the Association and other interested persons. On request from the department, an insurer shall provide the data to the department or the department may obtain the data from a designated statistical agent, as defined by Section 38.201 of this code.

(13) ~~[(17)]~~ The association may purchase ~~[shall either establish a]~~ reinsurance as part of its annual operating expenses to the extent ~~[program]~~ approved by the commissioner and may ~~[Texas Department of Insurance or]~~ make payments into the catastrophe reserve trust fund established under Subsection (h) ~~[(4)]~~ of this section. With the approval of the commissioner ~~[Texas Department of Insurance]~~, the association may use ~~[establish a]~~ reinsurance ~~[program]~~ that operates in addition to or in concert with the catastrophe reserve trust fund established under Subsection (h) ~~[(4)]~~ of this section and with assessments authorized by this Act.

(h)(1) ~~[(4)(1)]~~ The commissioner shall adopt rules under which the association relinquishes its ~~[members relinquish their]~~ net equity on an annual basis as provided by those rules by making payments to a fund known as the catastrophe reserve trust fund to fund the obligations of that fund under Section 19 ~~[19(a)]~~ of this Act and to fund the mitigation and preparedness plan established under this subsection to reduce the potential for payments by members of the association giving rise to tax credits in the event of loss or losses. Until disbursements are made as provided by this Act and rules adopted by the commissioner, all money, including investment income, deposited in the catastrophe reserve trust fund are state funds to be held by the comptroller outside the state treasury on behalf of, and with legal title in, the department. The fund may be terminated only by law. On termination of the fund, all assets of the fund revert to the state to be used to provide funding for the annual loss mitigation and preparedness plan developed and implemented by the commissioner under Subdivision (5) of this subsection.

(2) The catastrophe reserve trust fund shall be kept and maintained by the department ~~[Texas Department of Insurance]~~ pursuant to this Act and rules adopted by the commissioner. The comptroller, as custodian, shall administer the funds strictly and solely as provided by this Act and the commissioner's rules.

(3) At the end of either each calendar year or policy year, the association shall pay the net gain from operations of the Association ~~[equity of a member]~~, including all premium and other revenue of the association in excess of

incurred losses and operating expenses, including the cost of any reinsurance, to the catastrophe reserve trust fund as established under this subsection [~~or a reinsurance program approved by the commissioner~~].

(4) The commissioner's rules shall establish the procedure relating to the disbursement of money from the catastrophe reserve trust fund [~~to policyholders in the event of an occurrence or series of occurrences within the defined catastrophe area that results in a disbursement under Section 19(a) of this Act~~]. The rules may provide that money from the catastrophe reserve trust fund may be used to purchase reinsurance to protect the fund or to reimburse the Association for the payment of policyholder claims. Reinsurance purchases, if any, must be included in the reinsurance approved under Subsection (g)(13) of this section.

(5) Each state fiscal year, beginning with fiscal year 2002, the department may use from the investment income of the fund an amount equal to not less than \$1 million and not more than 10 percent of the investment income of the prior fiscal year to provide funding for an annual mitigation and preparedness plan to be developed and implemented each year by the commissioner. From that amount and as part of that plan, the department may use in each fiscal year \$1 million for the windstorm inspection program established under Section 6A of this Act. The mitigation and preparedness plan shall provide for steps to be taken in the seacoast territory by the commissioner or by a local government, state agency, educational institution, or nonprofit organization designated by the commissioner in the plan, to implement programs intended to improve preparedness for windstorm and hail catastrophes, reduce potential losses in the event of such a catastrophe, provide research into the means to reduce those losses, educate or inform the public in determining the appropriateness of particular upgrades to structures, or protect infrastructure from potential damage from those catastrophes. Money in excess of \$1 million is not available for use under this subsection if the commissioner determines that an expenditure of investment income from the fund would jeopardize the actuarial soundness of the fund or materially impair the ability of the fund to serve the state purposes for which it was established.

SECTION 5. (a) The board of directors of the Texas Windstorm Insurance Association established under Section 5, Article 21.49, Insurance Code, as that section existed prior to amendment by this Act, is abolished effective January 1, 2006.

(b) Not later than December 31, 2005, the commissioner of insurance shall appoint the members of the board of directors of the Texas Windstorm Insurance Association under Section 5, Article 21.49, Insurance Code, as amended by this Act.

(c) The term of a person who is serving as a member of the board of directors of the Texas Windstorm Insurance Association immediately before the abolition of that board under Subsection (a) of this section expires on January 1, 2006. Such a person is eligible for appointment by the commissioner of insurance to the new board of directors of the Texas Windstorm Insurance Association under Section 5, Article 21.49, Insurance Code, as amended by this Act.

SECTION 6. This Act takes effect January 1, 2006.

Amendment No. 2

Representative Smithee offered the following amendment to Amendment No. 1:

Amend the proposed floor substitute to **CSHB 1890** as follows:

(1) Insert the following new SECTIONS, appropriately numbered:

SECTION ____. Section 19, Article 21.49, Insurance Code, is amended to read as follows:

Sec. 19. PAYMENT OF LOSSES; PREMIUM TAX CREDIT. (a) If, in any calendar year, an occurrence or series of occurrences within the defined catastrophe area results in insured losses and operating expenses of the association in excess of premium and other revenue of the association, any excess losses shall be paid as provided by this section.

(b) After application of available revenue to losses, ~~follows:~~

[(4)] \$100 million, per catastrophic event, shall be assessed to the members of the association with the proportion of the loss allocable to each insurer determined in the same manner as its participation in the association has been determined for the year under Section 5(b) ~~[(e)]~~ of this Act. A member of the association may not directly or indirectly recover the amount of any assessment made under this subsection from additional premium charges on any insurance policy written on property that is not located within the first tier coastal counties. [5]

(c) Any losses that exceed the amounts available under Subsection (b) of this section, but not to exceed an additional \$300 million, per catastrophic event, shall be funded through public securities issued, without regard to whether an occurrence or series of occurrences within a defined catastrophe area has occurred, under the revenue bond program established under Section 20 of this Act.

(d) Any ~~[(2) any]~~ losses in excess of the amounts authorized under Subsections (b) and (c) of this section ~~[\$100 million]~~ shall be paid from the catastrophe reserve trust fund established under Section 8(h) ~~[(g)]~~ of this Act, not to exceed an amount equal to 50 percent of the balance of that fund.

(e) If the amount available under Subsection (d) of this section is insufficient to pay the excess losses, an additional amount not to exceed \$500 million shall be funded through the issuance of additional public securities under the revenue bond program established under Section 20 of this Act.

(f) If the amount available under Subsection (e) of this section is insufficient to pay the excess losses, reinsurance proceeds recoverable by the association and available under ~~and~~ any reinsurance program established by the association shall be used to pay the losses.

(g) Any [3]

~~[(3) for losses in excess of those paid under Subdivisions (1) and (2) of this subsection, an additional \$200 million shall be assessed to the members of the association with the proportion of the loss allocable to each insurer determined in the same manner as its participation in the association has been determined for the year under Section 5(e) of this Act;~~

~~[(4) any] losses in excess of those paid under Subsections (b)-(f) [Subdivisions (1), (2), and (3)] of this section [subsection] shall be assessed against members of the association, with the proportion of the total loss allocable to each insurer determined in the same manner as its participation in the association has been determined for the year under Section 5(b) [5(e)] of this Act.~~

~~(h) [(b)] An insurer may credit any amount paid in accordance with Subsection (g) [(a)(4)] of this section in a calendar year against its premium tax under Section 221.002 [Article 4.10] of this code. The tax credit herein authorized shall be allowed at a rate not to exceed 20 percent per year for five or more successive years following the year of payment of the claims. The balance of payments paid by the insurer and not claimed as such tax credit may be reflected in the books and records of the insurer as an admitted asset of the insurer for all purposes, including exhibition in annual statements pursuant to Section 862.001 [Article 6.12] of this code.~~

~~(i) The commissioner may adopt rules as necessary to implement this section.~~

SECTION _____. Article 21.49, Insurance Code, is amended by adding Section 20 to read as follows:

Sec. 20. REVENUE BOND PROGRAM FOR OPERATIONS AND PAYMENT OF CLAIMS. (a) In this section:

(1) "Board" means the board of directors of the Texas Public Finance Authority.

(2) "Bond" means any debt instrument or public security issued by the Texas Public Finance Authority.

(3) "Public security resolution" means the resolution or order authorizing public securities to be issued under this section.

(b) The legislature finds that the issuance of public securities to provide a method to raise funds to provide windstorm, hail, and fire insurance through the Texas Windstorm Insurance Association in certain designated portions of the state is for the benefit of the public and in furtherance of a public purpose.

(c) At the request of the association and with the approval of the commissioner, the Texas Public Finance Authority shall issue, on behalf of the association, public securities in a total amount not to exceed \$800 million in accordance with Subsection (d) and (e) of this Act.

(d) Without regard to whether an occurrence or series of occurrences within the defined catastrophe area has occurred, the board shall issue public securities equal to the amount specified under Section 19(c) of this Act.

(e) After an occurrence or series of occurrences within the defined catastrophe area has occurred, the board shall issue public securities in an amount not to exceed the amount specified under Section 19(e) of this Act as necessary to fund the payment of excess losses under that subsection.

(f) Public securities issued under this section shall be used to:

(1) fund the association, including funding necessary to:

(A) establish and maintain reserves to pay claims;

(B) pay incurred and future claims; and

(C) pay operating expenses;

(2) pay costs related to the issuance of the public securities; and

(3) pay other costs related to the public securities as may be determined

by the board.

(g) To the extent consistent with this section, Chapter 1232, Government Code, applies to public securities issued under this section. In the event of a conflict, this section controls. The following laws also apply to public securities issued under this section to the extent consistent with this section:

(1) Chapters 1201, 1202, 1204, 1205, 1231, and 1371, Government

Code; and

(2) Subchapter A, Chapter 1206, Government Code.

(h) Public securities issued under this section:

(1) may be issued at public or private sale; and

(2) must:

(A) be issued in the name of the association; and

(B) mature not more than 10 years after the date issued.

(i) In a public security resolution, the board may:

(1) make additional covenants with respect to the public securities and the designated income and receipts of the association pledged to the payment of the public securities; and

(2) provide for the flow of funds and the establishment, maintenance, and investment of funds and accounts with respect to the public securities.

(j) Funds generated through the issuance of public securities shall be held outside the state treasury in the custody of the comptroller. The association may request disbursement of the funds for the purposes set forth in Subsection (f) of this section.

(k) A public security resolution may establish special accounts, including an interest and sinking fund account, reserve account, and other accounts. The association shall administer the accounts in accordance with this section.

(l) Public securities are payable only from the premium surcharges established under Subsection (m) or (n) of this section, as applicable, or from other amounts that the association is authorized to levy, charge, and collect. Public securities are obligations solely of the association, and do not create a pledging, giving, or lending of the faith, credit, or taxing authority of this state. Each public security must include a statement that this state is not obligated to pay any amount on the public security and that the faith, credit, and taxing authority of this state are not pledged, given, or lent to those payments. Each public security issued under this section must state on its face that the public security is payable solely from the revenues pledged for that purpose and that the public security does not and may not constitute a legal or moral obligation of the state.

(m) The public securities and all debt service on the public securities issued in accordance with Subsection (d) shall be paid by premium surcharges in an amount approved by the commissioner and applied to insurance policies written through the association in the first tier coastal counties.

(n) The public securities and all debt service on the public securities issued in accordance with Subsection (e) shall be paid by premium surcharges in amounts approved by the commissioner and applied to each property and casualty insurance policy written by an insurer in this state or by the FAIR Plan Association. The premium surcharges applicable under this subsection to insurance policies written on property located in first tier coastal counties, including policies issued through the association must be equal to two times the premium surcharges applicable to insurance policies written on property located in counties that are not first tier coastal counties. A premium surcharge under this subsection may not be applied to a workers' compensation insurance policy, an accident and health insurance policy, or a medical malpractice insurance policy.

(o) As a condition of engaging in the business of insurance in this state, an insurer that engages in the business of property insurance in this state agrees that if the insurer leaves the insurance market in this state the insurer remains obligated to pay, until the public securities are retired, the insurer's share of the premium surcharges assessed under Subsection (m) or (n) of this section, as applicable, in an amount proportionate to that insurer's share of the insurance market in this state, as of the last complete reporting period before the date on which the insurer ceases to engage in that insurance business in this state. The proportion assessed against the insurer shall be based on the insurer's gross written premiums for insurance for the insurer's last reporting period.

(p) The association shall deposit all premium surcharges collected under Subsection (m) or (n) of this section, as applicable, in a fund to be held outside the state treasury in the custody of the comptroller. Money deposited in the fund may be invested as permitted by general law. Money in the fund required to be used to pay bond obligations and bond administrative expenses shall be transferred to the Texas Public Finance Authority or used by the comptroller in the manner and at the time specified in the resolution adopted in connection with the bond issue to ensure timely payment of obligations and expenses, or as otherwise provided by the bond documents. For bonds issued by the Texas Public Finance Authority for the association, the association shall provide for the payment of the bond obligations and the bond administrative expenses by irrevocably pledging revenues received from the premium surcharges and amounts on deposit in the fund, together with any bond reserve fund, as provided in the proceedings authorizing the bonds and related credit agreements.

(q) Revenue collected from the premium surcharges assessed under Subsection (m) or (n) of this section, as applicable, in any year that exceeds the amount of the bond obligations and bond administrative expenses payable in that year and interest earned on the premium surcharges may, in the discretion of the association and with the approval of the commissioner, be used to:

(1) pay bond obligations payable in the subsequent year, offsetting the amount that would otherwise have to be levied for the year under this section; or

(2) redeem or purchase outstanding bonds.

(r) The public securities issued under this section, any interest from those public securities, and all assets pledged to secure the payment of the public securities are free from taxation by this state or a political subdivision of this state.

(s) The public securities issued under this section constitute authorized investments under Articles 2.10 and 3.33 and Subpart A, Part I, Article 3.39 of this code.

(t) The state pledges to and agrees with the owners of any public securities issued in accordance with this section that the state will not limit or alter the rights vested in the association to fulfill the terms of any agreements made with the owners of the public securities or in any way impair the rights and remedies of those owners until the public securities, bond premium, if any, or interest, and all costs and expenses in connection with any action or proceeding by or on behalf of those owners, are fully met and discharged. The association may include this pledge and agreement of the state in any agreement with the owners of the public securities.

(u) A party at interest may use mandamus and all other legal and equitable remedies to require the association and any other party to carry out agreements and to perform functions and duties established under this section, the Texas Constitution, or a public security resolution.

(v) This section expires September 1, 2011.

(2) Renumber the SECTIONS of the bill appropriately.

Amendment No. 2 was adopted.

Amendment No. 3

Representative Smithee offered the following amendment to Amendment No. 1:

Amend the Floor Substitute to **CSHB 1890** as follows:

On page 4, delete all of lines 24 and 25.

Amendment No. 3 was adopted.

Amendment No. 4

Representative Seaman offered the following amendment to Amendment No. 1:

Amend the proposed floor substitute to **CSHB 1890**, as follows:

(1) Strike page 1, lines 16-29 through page 2, lines 1-4 and substitute the following:

(1) five representatives of different insurers who are members of the Association [who shall be elected by members as provided in the plan of operation];

(2) two representatives of the general public, one of whom is a resident of a first tier coastal county and one of whom is a resident of a county other than a first tier coastal county [nominated by the office of public insurance counsel, who, as of the date of the appointment, reside in a catastrophe area and who are policyholders, as of the date of the appointment, of the Association]; and

(3) two insurance [local recording] agents licensed under this Code, one with a [demonstrated experience in the Association, and whose] principal office [offices], as of the date of the appointment, [are] located in a first tier coastal county and one with a principal office located in a county other than a first tier coastal county [catastrophe area].

(2) On page 2, strike lines 5-7 and substitute the following:

(h) Members of the board of directors of the Association serve three-year staggered terms, with the terms of three members expiring on the third Tuesday of March of each year.

Amendment No. 4 was adopted.

Amendment No. 1, as amended, was adopted.

CSHB 1890, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 3112 ON SECOND READING

(by Corte)

CSHB 3112, A bill to be entitled An Act relating to the security of computer networks in state government.

Amendment No. 1

Representative Corte offered the following amendment to **CSHB 3112**:

Amend **CSHB 3112** on page 4, line 22, by adding the following after the period:

However, the department shall protect criminal justice and homeland security networks of this state to the fullest extent possible in accordance with federal criminal justice and homeland security network standards.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Corte offered the following amendment to **CSHB 3112**:

Amend **CSHB 3112** by adding the following appropriately numbered section to the bill (page 9, between lines 3 and 4) and renumbering the remaining sections of the bill accordingly:

SECTION ____. (a) In this section, "department" means the Department of Information Resources.

(b) The department shall study the interoperability of the network security features for user-specific access as provided by this Act. As part of the study, the department shall determine the potential for interoperability of user access

technology and identify resulting cost savings and security benefits to Texas. The department shall convene the necessary project staff from affected state agencies, as well as appropriate independent technology experts to determine feasibility, cost savings, scalability, and other relevant factors regarding integration of user-specific access features to state computer network systems that will enhance information security.

(c) The department shall report on the results of the study and include recommendations in the report regarding integration and user-specific access features that will enhance computer network and information security.

(d) Not later than December 31, 2006, the department shall file the report with:

- (1) the lieutenant governor;
- (2) the speaker of the house of representatives; and
- (3) the chairs of the house and senate committees with primary oversight over the department.

(Miller in the chair)

Amendment No. 2 was adopted.

CSHB 3112, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 2193 ON SECOND READING

(by Madden, Turner, R. Allen, McReynolds, and Haggerty)

CSHB 2193, A bill to be entitled An Act relating to the operation of a system of community supervision.

Amendment No. 1

Representative Madden offered the following amendment to **CSHB 2193**:

Amend **CSHB 2193** as follows:

(1) Strike page 1, line 24, through page 2, line 8 and substitute the following:

(b) In [Except as provided by Subsection (f), in] a felony case the minimum period of community supervision is the same as the minimum term of imprisonment applicable to the offense and the maximum period of community supervision is, subject to the extensions provided by Section 22:

(1) 10 years, for a felony listed in Section 3g, a felony for which on conviction registration as a sex offender is required by Chapter 62, or any other first degree felony; and

(2) 5 years, for any other second or third degree felony.

(2) On page 2, between lines 26 and 27, insert the following:

(f) This section applies to offenses listed in Section 3g only to the extent that Subsection (b) establishes minimum and maximum periods of community supervision for those offenses.

(3) Strike page 3, line 27, through page 6, line 2, and substitute the following:

(a) Except as provided by Subsection (d) of this section, when in the judge's opinion the best interest of society and the defendant will be served, the judge may, after receiving a plea of guilty or plea of nolo contendere, hearing the evidence, and finding that it substantiates the defendant's guilt, defer further proceedings without entering an adjudication of guilt, and place the defendant on community supervision. A judge may place on community supervision under this section a defendant charged with an offense under Section 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the victim, or a defendant charged with a felony described by Section 13B(b) of this article, only if the judge makes a finding in open court that placing the defendant on community supervision is in the best interest of the victim. The failure of the judge to find that deferred adjudication is in the best interest of the victim is not grounds for the defendant to set aside the plea, deferred adjudication, or any subsequent conviction or sentence. After placing the defendant on community supervision under this section, the judge shall inform the defendant orally or in writing of the possible consequences under Subsection (b) of this section of a violation of community supervision. If the information is provided orally, the judge must record and maintain the judge's statement to the defendant. The failure of a judge to inform a defendant of possible consequences under Subsection (b) of this section is not a ground for reversal unless the defendant shows that he was harmed by the failure of the judge to provide the information. The minimum and maximum terms of a period of community supervision under this section are the same terms provided under Section 3(b), subject to the extensions provided by Section 22. ~~[In a felony case, the period of community supervision may not exceed 10 years. For a defendant charged with a felony under Section 21.11, 22.011, or 22.021, Penal Code, regardless of the age of the victim, and for a defendant charged with a felony described by Section 13B(b) of this article, the period of community supervision may not be less than five years.]~~ In a misdemeanor case, the period of community supervision may not exceed two years, subject to the extensions provided by Section 22. ~~[A judge may increase the maximum period of community supervision in the manner provided by Section 22(c) or 22A of this article.]~~ The judge may impose a fine applicable to the offense and require any reasonable conditions of community supervision, including mental health treatment under Section 11(d) of this article, that a judge could impose on a defendant placed on community supervision for a conviction that was probated and suspended, including confinement. The provisions of Section 15 of this article specifying whether a defendant convicted of a state jail felony is to be confined in a county jail or state jail felony facility and establishing the minimum and maximum terms of confinement as a condition of community supervision apply in the same manner to a defendant placed on community supervision after pleading guilty or nolo contendere to a state jail felony. However, upon written motion of the defendant requesting final adjudication filed within 30 days after entering such plea and the deferment of adjudication, the judge shall proceed to final adjudication as in all other cases.

(4) Strike SECTION 6 of the bill (page 6, line 21, through page 7, line 6), and renumber subsequent SECTIONS of the bill accordingly.

(5) On page 7, line 9, strike "shall [~~may~~]" and substitute "may".

(6) On page 7, line 15, between "facility" and the period, insert ", but only if the defendant successfully completes the court-ordered residential program after sentencing".

(7) On page 8, strike lines 1 and 2 and substitute the following:

"community service project if [~~unless~~ the judge determines and notes on the order placing the defendant on community supervision".

(8) On page 8, line 24, after the period, insert the following:

Before conducting the review, the judge shall notify the attorney representing the state and the defendant.

(9) Strike page 10, line 16, through page 11, line 10, and substitute the following:

(c) The judge may extend a period of community supervision on a showing of good cause under this section as often as the judge determines is necessary, but the period of community supervision in a first, second, or third degree felony case may not exceed 10 years and, except as otherwise provided by this subsection, the period of community supervision in a misdemeanor case may not exceed three years. The judge may extend the period of community supervision in a misdemeanor case for any period the judge determines is necessary, not to exceed an additional two years beyond the three-year limit, if the defendant fails to pay a previously assessed fine, costs, or restitution and the judge determines that extending the period of supervision increases the likelihood that the defendant will fully pay the fine, costs, or restitution. A court may extend a period of community supervision under this section at any time during the period of supervision or, if a motion for revocation of community supervision is filed before the period of supervision ends, before the first anniversary of the date on which the period of supervision expires.

(10) On page 11, line 16, strike "shall" and substitute "may".

(11) On page 11, line 19, between "facility" and the period, insert ", but only if the defendant successfully completes the court-ordered residential program after sentencing".

(12) On page 15, strike lines 3 and 4 and substitute the following:

"the court shall enter an order of nondisclosure under Section 411.081, Government Code, as if the defendant had received a discharge and dismissal under Section 5(c), Article 42.12, Code of Criminal Procedure, with respect to all records and files".

(13) On page 33, strike lines 7-10 and substitute the following:

SECTION 31. (a) Except as otherwise provided by this subsection, the change in law made by this Act applies to a person who is on community supervision on or after the effective date of this Act, regardless of when the person was initially placed on community supervision. The change in law made by this Act changing the maximum period of community supervision applies only to a defendant initially placed on community supervision on or after the effective date of this Act.

Amendment No. 2

Representative Madden offered the following amendment to Amendment No. 1:

Amend the Madden amendment to **CSHB 2193** as follows:

(1) On page 1, line 11, between "first" and "degree", insert "or second".

(2) On page 1, strike lines 12 and 13 and substitute the following:

(2) 5 years, for a third degree felony other than a third degree felony otherwise described by Subdivision (1).

Amendment No. 2 was adopted.

Amendment No. 1, as amended, was adopted.

Amendment No. 3

Representative Dutton offered the following amendment to **CSHB 2193**:

Amend **CSHB 2193** (House Committee Printing) by adding the following appropriately numbered sections and renumbering subsequent sections accordingly:

SECTION _____. Article 42.12, Code of Criminal Procedure, is amended by adding Section 20A to read as follows:

Sec. 20A. RESTORATION OF CERTAIN RIGHTS. (a) At any time after the defendant has satisfactorily completed one-third of the original community supervision period or two years of community supervision, whichever is less, and the defendant has successfully completed a citizenship class and 10 hours of community service under Subsection (b), the defendant may petition the court to restore and the court may restore the following rights:

(1) the right to vote;

(2) the right to serve as a petit juror; and

(3) the right to serve as an executor or administrator of an estate for a person who is related to the defendant within the third degree by consanguinity or within the second degree by affinity, as determined under Chapter 573, Government Code.

(b) To be eligible for a restoration of rights under this section, the defendant must:

(1) complete a citizenship class that is administered by an organization or entity certified, in accordance with rules adopted by the Texas Department of Criminal Justice, to provide instruction regarding the rights and responsibilities of citizens for the purposes of this section;

(2) complete at least 10 hours of community service; and

(3) provide documentation of the defendant's successful completion of the citizenship class and of at least 10 hours of community service to the court on the filing of a petition under Subsection (a).

(c) The court must rule on a petition filed under Subsection (a) not later than the 180th day after the date the petition is filed. If the court fails to rule on the petition on or before the 180th day after the date the petition is filed and if the defendant is otherwise eligible for the restoration of rights under this section, the court shall restore all of the defendant's rights described by Subsection (a).

SECTION _____. Section 11.002, Election Code, is amended to read as follows:

Sec. 11.002. QUALIFIED VOTER. In this code, "qualified voter" means a person who:

- (1) is 18 years of age or older;
- (2) is a United States citizen;
- (3) has not been determined mentally incompetent by a final judgment of a court;
- (4) has not been finally convicted of a felony or, if so convicted, has:
 - (A) fully discharged the person's sentence, including any term of incarceration, parole, or supervision, or completed a period of community supervision [~~probation~~] ordered by any court;
 - (B) had the person's right to vote restored as provided by law; or
 - (C) [~~(B)~~] been pardoned or otherwise released from the resulting disability to vote;
- (5) is a resident of this state; and
- (6) is a registered voter.

SECTION _____. Section 62.102, Government Code, is amended to read as follows:

Sec. 62.102. GENERAL QUALIFICATIONS FOR JURY SERVICE. A person is disqualified to serve as a petit juror unless the person [~~he~~]:

- (1) is at least 18 years of age;
- (2) is a citizen of this state and of the county in which the person [~~he~~] is to serve as a juror;
- (3) is qualified under the constitution and laws to vote in the county in which the person [~~he~~] is to serve as a juror;
- (4) is of sound mind and good moral character;
- (5) is able to read and write;
- (6) has not served as a petit juror for six days during the preceding three months in the county court or during the preceding six months in the district court;
- (7) has not been convicted of a felony or, if the person has been convicted of a felony, has had the person's right to serve as a petit juror restored as provided by law; and
- (8) is not under indictment or other legal accusation of misdemeanor or felony theft or any other felony.

SECTION _____. Chapter 493, Government Code, is amended by adding Section 493.026 to read as follows:

Sec. 493.026. CERTIFICATION TO INSTRUCT CITIZENSHIP CLASSES. The department by rule shall establish eligibility criteria, requirements, and procedures for certifying an organization or entity to provide instruction regarding the rights and responsibilities of citizens for the purposes of Section 20A, Article 42.12, Code of Criminal Procedure.

SECTION _____. Section 78, Texas Probate Code, is amended to read as follows:

Sec. 78. PERSONS DISQUALIFIED TO SERVE AS EXECUTOR OR ADMINISTRATOR. A ~~[No]~~ person is disqualified ~~[qualified]~~ to serve as an executor or administrator if the person ~~[who]~~ is:

- (a) An incapacitated person;
- (b) A convicted felon, under the laws either of the United States or of any state or territory of the United States, or of the District of Columbia, unless the ~~[such]~~ person has been duly pardoned, or has had the person's ~~[his]~~ civil rights or right to serve as an executor or administrator restored, in accordance with law;
- (c) A non-resident (natural person or corporation) of this State who has not appointed a resident agent to accept service of process in all actions or proceedings with respect to the estate, and caused such appointment to be filed with the court;
- (d) A corporation not authorized to act as a fiduciary in this State; or
- (e) A person whom the court finds unsuitable.

Representative Madden moved to table Amendment No. 3.

The motion to table prevailed.

Amendment No. 4

Representative Keel offered the following amendment to **CSHB 2193**:

Amend **CSHB 2193** as follows:

- (1) On page 14, line 21, between "felony" and the comma, insert "under Chapter 481".
- (2) On page 14, line 21, after "the court", insert ", with the consent of the attorney representing the state,".

Amendment No. 4 was adopted.

Amendment No. 5

Representative Uresti offered the following amendment to **CSHB 2193**:

Amend **CSHB 2193** by adding the following appropriately numbered SECTION to the bill and renumbering existing SECTIONS accordingly:

SECTION ____ (a) Article 45.051, Code of Criminal Procedure, is amended by adding Subsections (b-1) and (b-2) to read as follows:

(b-1) This subsection applies only to a defendant who is charged with a traffic offense or an offense under Section 106.05, Alcoholic Beverage Code, and is a resident of this state. If under Subsection (b)(10) of this article the judge requires the defendant to perform community service as a condition of the deferral, the defendant is entitled to elect whether to perform the required community service work for:

- (1) a governmental entity or a nonprofit organization that is located in the county in which the court is located; or
- (2) a governmental entity or a nonprofit organization that is located in the county in which the defendant resides, but only if the entity or organization agrees to:

(A) supervise the defendant in the performance of the defendant's community service work; and

(B) report to the court on the defendant's community service work.

(b-2) This subsection applies only to a defendant charged with an offense under Section 106.05, Alcoholic Beverage Code, who, under Subsection (b-1), elects to perform the required community supervision in the county in which the defendant resides. The community supervision must comply with Sections 106.071(d) and (e), Alcoholic Beverage Code, except that if the educational programs or services described by Section 106.071(d) are not available in the county of the defendant's residence, the court may order community service that it considers appropriate for rehabilitative purposes.

(b) This section takes effect immediately if this Act receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this section takes effect September 1, 2005.

Amendment No. 5 was withdrawn.

A record vote was requested.

CSHB 2193, as amended, was passed to engrossment by (Record 639): 90 Yeas, 48 Nays, 2 Present, not voting.

Yeas — Allen, R.; Alonzo; Anchia; Bailey; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Coleman; Cook, B.; Corte; Crownover; Davis, J.; Davis, Y.; Dawson; Denny; Deshotel; Driver; Dukes; Dutton; Eiland; Farrar; Flores; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamric; Hardcastle; Hartnett; Hegar; Herrero; Hill; Hochberg; Hughes; Hunter; Isett; Jackson; Jones, D.; Jones, J.; Laney; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Moreno, P.; Morrison; Mowery; Naishtat; Noriega, M.; Oliveira; Olivo; Orr; Pickett; Puente; Quintanilla; Raymond; Reyna; Ritter; Rodriguez; Seaman; Smith, T.; Smithee; Solis; Solomons; Strama; Swinford; Thompson; Truitt; Turner; Uresti; Veasey; Villarreal; Vo; West; Wong.

Nays — Anderson; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Chisum; Cook, R.; Crabb; Delisi; Dunnam; Eissler; Elkins; Escobar; Farabee; Flynn; Frost; Gallego; Gattis; Hamilton; Harper-Brown; Hilderbran; Homer; Hopson; Howard; Hupp; Keel; Keffer, B.; Keffer, J.; Krusee; Kuempel; Laubenberg; Merritt; Nixon; Otto; Paxton; Phillips; Riddle; Rose; Smith, W.; Straus; Talton; Taylor; Van Arsdale; Woolley; Zedler.

Present, not voting — Mr. Speaker; Miller(C).

Absent, Excused — Allen, A.; Edwards; Hodge.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Hope; King, P.; King, T.; Peña.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 639. I intended to vote no.

Anchia

I was shown voting yes on Record No. 639. I intended to vote no.

Castro

I was shown voting yes on Record No. 639. I intended to vote no.

Crownover

I was shown voting no on Record No. 639. I intended to vote yes.

Escobar

I was shown voting yes on Record No. 639. I intended to vote no.

Giddings

I was shown voting yes on Record No. 639. I intended to vote no.

Gonzales

I was shown voting yes on Record No. 639. I intended to vote no.

Gonzalez Toureilles

I was shown voting yes on Record No. 639. I intended to vote no.

Guillen

When Record No. 639 was taken, I was temporarily out of the house chamber. I would have voted no.

P. King

When Record No. 639 was taken, I was in the house but away from my desk. I would have voted yes.

T. King

I was shown voting yes on Record No. 639. I intended to vote no.

Martinez Fischer

I was shown voting yes on Record No. 639. I intended to vote no.

Raymond

I was shown voting yes on Record No. 639. I intended to vote no.

Strama

I was shown voting yes on Record No. 639. I intended to vote no.

Vo

REASON FOR VOTE

This bill has been touted as a way to "streamline" our probation system, the implication being that we have too many probationers. If simply reducing the length of the probationary period a convicted felon can be ordered to serve is "streamlining" the system, then the bill's proponents have succeeded.

The bill prevents a judge from having the discretion to sentence third degree felons to any amount of probation longer than five years. Current law allows the judge to choose any amount of time between two and ten years. The bill's change

to the law is foolish and removes the ability of trial judges to appropriately apply sound discretion on a case-by-case basis, corresponding to the seriousness of the offense and the criminal history of the defendant.

There are some third degree felony cases that merit lengthy probationary periods, just as there are infrequent situations where the facts and circumstances of a first degree felony case may warrant a shorter probationary period. Because these matters involve literally infinite variables of facts of the case and criminal backgrounds and circumstances of defendants, Texas has traditionally accorded judges and juries wide latitude to accommodate differing situations to effect justice in each case. Current law already allows judges to sentence defendants to the lower end of probation, but it stands to reason that judges have sentenced probationers to sentences longer than this bill would now allow because they believed that the facts and circumstances warranted supervision of the defendant for a longer period of time. Such decisions are imminently reasonable and may include considerations about the safety of potential victims and the public at large.

A good example of the misinformation regarding this bill is an article in today's *Austin American Statesman* which reports, "*The bill would cut the maximum probation terms from 10 to five years for **nonviolent**, third-degree felonies. . .*" [Emphasis added]. The offenses that would have reduced punishments under this bill include, among others, kidnapping, aggravated assault with serious bodily injury, robbery, and arson — hardly accurately categorized as "nonviolent" felonies.

The criminal justice policy impact statement from the Legislative Budget Board estimates that this bill, if enacted, will result in approximately 49,242 felons being immediately taken off of probation supervision. The potential danger this represents to the public is obvious. All of these probationers were deemed worthy of being supervised for longer than five years, and the judges presiding over their cases have furthermore not seen fit to release them early (which is likewise currently within their discretion to do under current law). Instead, the legislature will simply let them off probation as much as five years early, applying this bill retroactively as well as prospectively. Unbelievable.

There will be unforeseen and serious consequences to victims of crime if this bill is passed by the senate and becomes law. If the senate passes this measure, the governor should veto it.

Keel

CSHB 2793 ON SECOND READING (by Bonnen)

CSHB 2793, A bill to be entitled An Act relating to the removal and collection of convenience switches from motor vehicles; providing penalties.

CSHB 2793 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 3024 ON SECOND READING
(by B. Cook)

CSHB 3024, A bill to be entitled An Act relating to the sale of fish collected from certain private property.

Amendment No. 1

Representative B. Cook offered the following amendment to **CSHB 3024**:

Amend **CSHB 3024** as follows:

(1) On page 1, between lines 18 and 19, insert:

(b) The owner of a private facility must notify the Parks and Wildlife Department at least 24 hours before the sale of fish under this section.

(c) Not later than the 30th day after the sale of fish under this section, the seller shall submit a copy of the invoice for the sale to the Parks and Wildlife Department. The seller and the buyer shall maintain a record of the sale for not less than one year. The record must contain at least:

(1) the invoice number;

(2) the date of the sale;

(3) the name and address of the seller;

(4) the name, address, and aquaculture license number of the buyer;

and

(5) the number of fish sold.

(2) On page 1, line 19, strike "(b)" and substitute "(d)".

Amendment No. 1 was adopted.

CSHB 3024, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 1434 ON SECOND READING
(by Hamric, Solomons, Truitt, and Dunnam)

CSHB 1434, A bill to be entitled An Act relating to the continuation and functions of the Texas Lottery Commission.

Amendment No. 1

Representative Hamric offered the following amendment to **CSHB 1434**:

Amend **CSHB 1434** (House Committee Report) as follows:

(1) Strike SECTION 4 of the bill (page 2, lines 15 through 24).

(2) Add the following appropriately numbered SECTION to the bill:

SECTION __. Subchapter C, Chapter 466, Government Code, is amended by adding Section 466.1005 to read as follows:

Sec. 466.1005. PROCUREMENTS. (a) The commission may purchase or lease facilities, goods, and services and make any purchases, leases, or contracts necessary for carrying out the purposes of this chapter.

(b) The commission shall review and must approve all major procurements as provided by commission rule. The commission by rule shall establish a procedure to determine what constitutes a major procurement based on the cumulative value of a contract and other relevant factors.

(c) The commission may delegate to the executive director the authority to approve procurements other than major procurements.

(3) On Page 22, line 20, strike ", 467.032(c), and 2054.007(a)" and substitute "and 467.032(c)".

(4) Renumber the SECTIONS of the bill accordingly.

(Speaker in the chair)

Representative Flores moved to table Amendment No. 1.

A record vote was requested.

The motion to table prevailed by (Record 640): 72 Yeas, 64 Nays, 1 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Bailey; Blake; Bohac; Burnam; Callegari; Castro; Chavez; Chisum; Coleman; Cook, R.; Davis, Y.; Deshotel; Dukes; Dunnam; Dutton; Eiland; Eissler; Escobar; Farrar; Flores; Frost; Gallego; Gattis; Gonzales; Gonzalez Tourelles; Goolsby; Grusendorf; Guillen; Hamilton; Hardcastle; Harper-Brown; Hegar; Herrero; Homer; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Laney; Laubenberg; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; Merritt; Miller; Moreno, P.; Morrison; Naishtat; Otto; Paxton; Peña; Phillips; Puente; Quintanilla; Raymond; Rodriguez; Smith, T.; Solis; Straus; Talton; Taylor; Turner; Uresti; Van Arsdale; Veasey; Zedler.

Nays — Allen, R.; Baxter; Berman; Bonnen; Branch; Brown, B.; Brown, F.; Campbell; Casteel; Cook, B.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Driver; Elkins; Farabee; Flynn; Geren; Goodman; Griggs; Haggerty; Hamric; Hartnett; Hilderbran; Hill; Hochberg; Hopson; Howard; Hunter; Hupp; Isett; King, T.; Krusee; Kuempel; Madden; McCall; McReynolds; Menendez; Mowery; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Pickett; Reyna; Riddle; Rose; Seaman; Smith, W.; Solomons; Strama; Swinford; Thompson; Truitt; Villarreal; Vo; West; Wong; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Allen, A.; Edwards; Hodge.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Giddings; Hope; Hughes; Keffer, J.; King, P.; Ritter; Smithee.

STATEMENTS OF VOTE

When Record No. 640 was taken, I was in the house but away from my desk. I would have voted yes.

J. Keffer

I was shown voting no on Record No. 640. I intended to vote yes.

Olivo

Amendment No. 1 - Vote Reconsidered

Representative Dunnam moved to reconsider the vote by which Amendment No. 1 was tabled.

The motion to reconsider prevailed.

The question again occurred on the motion to table Amendment No. 1.

A record vote was requested.

The motion to table prevailed by (Record 641): 75 Yeas, 66 Nays, 1 Present, not voting.

Yeas — Alonzo; Anchia; Anderson; Bailey; Blake; Bohac; Burnam; Castro; Chavez; Chisum; Cook, R.; Corte; Davis, Y.; Deshotel; Driver; Dukes; Dunnam; Dutton; Eissler; Escobar; Farrar; Flores; Gattis; Giddings; Gonzales; Gonzalez Tourelles; Goolsby; Grusendorf; Guillen; Hamilton; Hardcastle; Harper-Brown; Hegar; Herrero; Hilderbran; Homer; Hughes; Isett; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; Krusee; Laney; Laubenberg; Leibowitz; Luna; Martinez; Martinez Fischer; McClendon; Menendez; Merritt; Moreno, P.; Morrison; Naishtat; Noriega, M.; Olivo; Otto; Paxton; Peña; Phillips; Puente; Quintanilla; Raymond; Rose; Solis; Straus; Talton; Taylor; Thompson; Turner; Uresti; Van Arsdale; Zedler.

Nays — Allen, R.; Baxter; Berman; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Coleman; Cook, B.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Eiland; Elkins; Farabee; Flynn; Frost; Gallego; Geren; Goodman; Griggs; Haggerty; Hamric; Hartnett; Hill; Hochberg; Hopson; Howard; Hunter; Hupp; Jackson; King, T.; Kuempel; Madden; McCall; McReynolds; Miller; Mowery; Nixon; Oliveira; Orr; Pickett; Reyna; Riddle; Ritter; Rodriguez; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Strama; Swinford; Truitt; Veasey; Villarreal; Vo; West; Wong; Woolley.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Allen, A.; Edwards; Hodge.

Absent, Excused, Committee Meeting — Kolkhorst; Pitts.

Absent — Hope; King, P.

Amendment No. 2

Representative Hamric offered the following amendment to **CSHB 1434**:

Amend **CSHB 1434** (House Committee Report) as follows:

(1) On page 5, strike lines 23 and 24 and substitute the following:

(1) "Custodian," "financial institution," and "guardian" [,"adult," "bank," "custodian," "guardian," "member of a minor's family," and "minor"]

Amendment No. 3

Representative Hamric offered the following amendment to Amendment No. 2:

Amend Amendment No. 2 by Hamric to **CSHB 1434** on page 1 immediately following line 6 by adding the following ITEM to the amendment:

(2) On page 23, lines 17 and 18, strike "prescribe the form and amount of the license amendment fee as required by Section 466.151(f)" and substitute "prescribe the form of the license amendment application and the amount of the license amendment fee as required by Section 466.151(g)".

Amendment No. 3 was adopted.

Amendment No. 2, as amended, was adopted.

Amendment No. 4

Representatives Flores, Van Arsdale, and Howard offered the following amendment to **CSHB 1434**:

Amend **CSHB 1434** (House Committee Report) as follows:

(1) Strike SECTIONS 3 and 4 of the bill (page 1, line 24 through page 2, line 24).

(2) Add the following appropriately numbered SECTIONS to the bill:

SECTION __. Section 466.101, Government Code, is amended to read as follows:

Sec. 466.101. PROCUREMENT PROCEDURES. Except as otherwise provided by this subchapter, the general law governing purchasing and contracts by state agencies applies to the commission. ~~[(a) The executive director may establish procedures for the purchase or lease of facilities, goods, and services and make any purchases, leases, or contracts that are necessary for carrying out the purposes of this chapter. The procedures must, as determined feasible and appropriate by the executive director, promote competition to the maximum extent possible.~~

~~[(b) In all procurement decisions, the executive director shall take into account the particularly sensitive nature of the lottery and shall act to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery and the objective of producing revenues for the state treasury.~~

~~[(c) The procurement procedures adopted by the executive director must, as determined feasible and appropriate by the executive director, afford any party who is aggrieved by the terms of a solicitation or the award of a contract an opportunity to protest the executive director's action to the commission. The protest procedures must provide for an expedient resolution of the protest in order to avoid substantially delaying a solicitation or contract award that is necessary for the timely implementation of a lottery game. A protest must be in writing and be filed with the commission not later than 72 hours after receipt of notice of the executive director's action.~~

~~[(d) A party who is aggrieved by the commission's resolution of a protest under Subsection (c) may file an action in the district court of Travis County. The court shall give preference to hearings and trials of actions under this section. If the party filing the action seeks to enjoin the implementation of a solicitation or~~

~~contract, the party shall post a bond that is payable to the state if the party does not prevail in the appeal, and is in an amount sufficient to compensate the state for the revenue that would be lost due to the delay in lottery operations.~~

~~[(e) The commission shall require any person seeking to contract for goods or services relating to the implementation and administration of this chapter to submit to competitive bidding procedures in accordance with rules adopted by the commission. The procedures must be for the purpose of ensuring fairness and integrity.]~~

(3) On page 22, line 20, between "466.003," and "467.032(c)", insert "466.102, 466.104, 466.105, 466.106, 466.107, 466.108,".

(4) On page 24, strike lines 13 through 19 and substitute the following:

(d) The change in law made by this Act governing purchasing and contracts by the Texas Lottery Commission applies to a purchase or contract made on or after the effective date of this Act, except that a contract or purchase for which the initial notice soliciting bids or proposals or other applicable expressions of interest is given before that date is governed by the law in effect when the initial notice for the contract or purchase is given, and the former law is continued in effect for that purpose. The change in law made by this Act does not affect a contract entered into before the effective date of this Act, and does not apply to a purchase made on or after the effective date under a contract entered into before the effective date if the purchase is made during the period covered by the contract.

(5) Renumber the SECTIONS of the bill accordingly.

Amendment No. 5

Representative Van Arsdale offered the following amendment to Amendment No. 4:

Amend Amendment No. 4 by Van Arsdale to **CSHB 1434** on page 1, by striking lines 26 through 28, and substituting the following:

(C) does not include any electronic device used to play an electronic version of pull-tab bingo.

Amendment No. 5 was withdrawn.

Amendment No. 6

Representative Van Arsdale offered the following amendment to Amendment No. 4:

Amend Amendment No. 4 by Van Arsdale to **CSHB 1434** on page 1, by striking lines 26 through 28, and substituting the following:

(C) does not include an electronic monitoring terminal, a site controller, or any electronic device used to play an electronic version of pull-tab bingo.

(A. Allen and Pitts now present)

Amendment No. 6 was adopted.

Amendment No. 7

Representative Hamric offered the following amendment to Amendment No. 4:

Amend Amendment No. 4 by Howard to **CSHB 1434** on page 1, line 12, following the period, by adding "This section does not apply to any game the commission was authorized to offer, conduct, operate, or regulate as of January 1, 2005.".

Amendment No. 7 was withdrawn.

Amendment No. 8

Representative Hartnett offered the following amendment to Amendment No. 4:

Amend the Van Arsdale amendment to **CSHB 1434** as follows:

(1) On page 1, line 2, strike "SECTION" and substitute "SECTIONS".

(2) On page 1, following line 28, insert the following:

SECTION _____. The amendment by this Act of Section 2001.002, Occupations Code, prevails over any conflicting act of the 79th Legislature, Regular Session, 2005, regardless of the relative dates of enactment.

Amendment No. 8 was adopted. (Keel recorded voting no.)

Amendment No. 4, as amended, was adopted. (Keel recorded voting no.)

Amendment No. 9

Representative Van Arsdale offered the following amendment to **CSHB 1434**:

Amend **CSHB 1434** (House Committee Report) on page 6, line 2, by striking "18" and substituting "21".

Amendment No. 9 was withdrawn.

Amendment No. 10

Representative Howard offered the following amendment to **CSHB 1434**:

Amend **CSHB 1434** (House Committee Report) by adding the following appropriately numbered SECTION to the bill and renumbering subsequent SECTIONS of the bill accordingly:

SECTION ___. Subchapter F, Chapter 466, Government Code, is amended by adding Section 466.257 to read as follows:

Sec. 466.257. STATE REVENUE ON PERCENTAGE WAGERED. Any game of chance operated under the commission's authority or regulated by the commission must generate as revenue to this state an amount that is not less than 12 percent of the total amount wagered or otherwise paid to play or participate in the game of chance. This section does not apply to bingo conducted in accordance with Chapter 2001, Occupations Code.

Amendment No. 11

Representative Hamric offered the following amendment to Amendment No. 10:

Amend Amendment No. 10 by Howard to **CSHB 1434** on page 1, line 12, following the period, by adding "This section does not apply to any game the commission was authorized to offer, conduct, operate, or regulate as of January 1, 2005.".

Amendment No. 11 was adopted.

Amendment No. 10, as amended, was adopted.

Amendment No. 12

Representative Flores offered the following amendment to **CSHB 1434**:

Amend **CSHB 1434** (House Committee Report) as follows:

(1) Strike SECTIONS 3 and 4 of the bill (page 1, line 24 through page 2, line 24).

(2) Add the following appropriately numbered SECTIONS to the bill:

SECTION __. Section 466.101, Government Code, is amended to read as follows:

Sec. 466.101. PROCUREMENT PROCEDURES. Except as otherwise provided by this subchapter, the general law governing purchasing and contracts by state agencies applies to the commission. ~~[(a) The executive director may establish procedures for the purchase or lease of facilities, goods, and services and make any purchases, leases, or contracts that are necessary for carrying out the purposes of this chapter. The procedures must, as determined feasible and appropriate by the executive director, promote competition to the maximum extent possible.~~

~~[(b) In all procurement decisions, the executive director shall take into account the particularly sensitive nature of the lottery and shall act to promote and ensure integrity, security, honesty, and fairness in the operation and administration of the lottery and the objective of producing revenues for the state treasury.~~

~~[(c) The procurement procedures adopted by the executive director must, as determined feasible and appropriate by the executive director, afford any party who is aggrieved by the terms of a solicitation or the award of a contract an opportunity to protest the executive director's action to the commission. The protest procedures must provide for an expedient resolution of the protest in order to avoid substantially delaying a solicitation or contract award that is necessary for the timely implementation of a lottery game. A protest must be in writing and be filed with the commission not later than 72 hours after receipt of notice of the executive director's action.~~

~~[(d) A party who is aggrieved by the commission's resolution of a protest under Subsection (c) may file an action in the district court of Travis County. The court shall give preference to hearings and trials of actions under this section. If the party filing the action seeks to enjoin the implementation of a solicitation or~~

~~contract, the party shall post a bond that is payable to the state if the party does not prevail in the appeal, and is in an amount sufficient to compensate the state for the revenue that would be lost due to the delay in lottery operations.~~

~~[(c) The commission shall require any person seeking to contract for goods or services relating to the implementation and administration of this chapter to submit to competitive bidding procedures in accordance with rules adopted by the commission. The procedures must be for the purpose of ensuring fairness and integrity.]~~

(3) On page 22, line 20, between "466.003," and "467.032(c)", insert "466.102, 466.104, 466.105, 466.106, 466.107, 466.108,".

(4) On page 24, strike lines 13 through 19 and substitute the following:

(d) The change in law made by this Act governing purchasing and contracts by the Texas Lottery Commission applies to a purchase or contract made on or after the effective date of this Act, except that a contract or purchase for which the initial notice soliciting bids or proposals or other applicable expressions of interest is given before that date is governed by the law in effect when the initial notice for the contract or purchase is given, and the former law is continued in effect for that purpose. The change in law made by this Act does not affect a contract entered into before the effective date of this Act, and does not apply to a purchase made on or after the effective date under a contract entered into before the effective date if the purchase is made during the period covered by the contract.

(5) Renumber the SECTIONS of the bill accordingly.

Amendment No. 12 was adopted.

(Kolkhorst now present)

CSHB 1434 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE Y. DAVIS: Chairwoman Hamric, I just have a question. I noticed in the bill, you expanded the number of members on the board of the Lottery Commission. Is that correct?

REPRESENTATIVE HAMRIC: From three to five, yes.

Y. DAVIS: And my question is whether or not there was any language placed in the bill to deal with maybe trying to direct this and make sure the board is diverse. Is there some level of diversity? I know that on the floor there has been a lot of discussion about the various constituents who participate in gambling. And I know there is some concern about whether poor people or minorities gamble. I'm wondering if the board expansion will speak to how we can get some diversity on it. Does that bill do that?

HAMRIC: The bill speaks and has the same language in it that we have in all of the bills as far as appointees, that they cannot be discriminated against for race, religion, etc.

Y. DAVIS: We've had even some additional language that says the board should attempt to try to reflect the diversity of the State of Texas. Is that something we could maybe include, because so much discussion has been raised relative to that. Is that something that we might need to add? Do you think the language—

HAMRIC: I think the language as it's in there will cover everything and I certainly think if you would like to establish the intent that is certainly something we need to look at. I would be happy to do that and have your remarks reduced to writing and put in the journal as far as the intent. I think that's the intent of all the appointees to all of these commissions and boards that we have.

Y. DAVIS: You know we have many boards that don't have much diversity on them.

HAMRIC: Right, but I do think that is our intent most of the time. Don't you—think that's the intent of the body?

Y. DAVIS: I appreciate that. It will be fine, I just like to make sure that we have discussion. I know that was one of the issues brought before on all the issues relative to gambling. There was some concern about ethnic and minorities participating in gambling. To that extent, it would be nice if we had someone on that board that could look at all of those issues relative to diversity.

HAMRIC: I think you have an excellent point and I would agree.

REMARKS ORDERED PRINTED

Representative Y. Davis moved to print remarks between Representative Hamric and Representative Y. Davis.

The motion prevailed.

A record vote was requested.

CSHB 1434, as amended, was passed to engrossment by (Record 642): 128 Yeas, 15 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Campbell; Casteel; Castro; Chavez; Chisum; Cook, B.; Cook, R.; Corte; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Tourelles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hopson; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Oliveira; Olivo; Orr; Otto; Peña; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Swinford; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Vo; West; Wong; Woolley; Zedler.

Nays — Burnam; Callegari; Coleman; Crabb; Flynn; Harper-Brown; Miller; Noriega, M.; Paxton; Phillips; Rodriguez; Straus; Talton; Taylor; Villarreal.

Present, not voting — Mr. Speaker(C); Jones, J.

Absent, Excused — Edwards; Hodge.

Absent — Hope; Howard.

STATEMENTS OF VOTE

I was shown voting yes on Record No. 642. I intended to vote no.

B. Brown

When Record No. 642 was taken, I was in the house but away from my desk. I would have voted no.

Howard

I was shown voting yes on Record No. 642. I intended to vote no.

Hughes

I was shown voting yes on Record No. 642. I intended to vote no.

Rose

CSHB 2698 ON SECOND READING

(by Swinford, Campbell, and Pitts)

CSHB 2698, A bill to be entitled An Act relating to the Department of Information Resources' management of state technology centers.

CSHB 2698 - LAID ON THE TABLE SUBJECT TO CALL

Representative Swinford moved to lay **CSHB 2698** on the table subject to call.

The motion prevailed.

GENERAL STATE CALENDAR

HOUSE BILLS

THIRD READING

The following bills were laid before the house and read third time:

HB 295 ON THIRD READING

(by McClendon and Leibowitz)

HB 295, A bill to be entitled An Act relating to the removal of a member of a junior college district board of trustees for failure to attend board meetings.

HB 295 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2420 ON THIRD READING
(by Chavez, Solis, and Escobar)

HB 2420, A bill to be entitled An Act relating to the allocation of federal funds directed to be used to support graduate medical education in connection with the state Medicaid program.

HB 2420 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Berman, Flynn, Miller, and Zedler recorded voting no.)

HB 3047 ON THIRD READING
(by Veasey)

HB 3047, A bill to be entitled An Act relating to emergency communication district participation in state travel services contracts.

A record vote was requested.

HB 3047 was passed by (Record 643): 126 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, R.; Alonzo; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Dukes; Dunnam; Dutton; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Olivo; Orr; Paxton; Peña; Phillips; Pickett; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Swinford; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Edwards; Hodge.

Absent — Allen, A.; Anchia; Coleman; Driver; Eiland; Goodman; Goolsby; Hamric; Hardcastle; Hope; Krusee; Kuempel; Oliveira; Otto; Pitts; Rodriguez; Strama; Straus; Talton; Taylor.

STATEMENTS OF VOTE

When Record No. 643 was taken, I was in the house but away from my desk. I would have voted yes.

Anchia

When Record No. 643 was taken, I was in the house but away from my desk. I would have voted yes.

Strama

When Record No. 643 was taken, I was in the house but away from my desk. I would have voted yes.

Taylor

HB 1823 ON THIRD READING
(by Dutton, Farrar, and W. Smith)

HB 1823, A bill to be entitled An Act relating to the rights of a purchaser under an executory contract for conveyance of real property.

(Edwards now present)

HB 1823 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Phillips recorded voting no.)

HB 2099 ON THIRD READING
(by Dutton)

HB 2099, A bill to be entitled An Act relating to investigations of reports of child abuse and neglect.

HB 2099 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2139 ON THIRD READING
(by Phillips)

HB 2139, A bill to be entitled An Act relating to certain agreements by the Texas Department of Transportation involving pass-through tolls.

A record vote was requested.

HB 2139 was passed by (Record 644): 135 Yeas, 3 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Davis, J.; Davis, Y.; Dawson; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hilderbran; Hill; Hochberg; Homer; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kuempel; Laney; Laubenberg; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller;

Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Herrero; Kolkhorst; Leibowitz.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Hodge.

Absent — Burnam; Coleman; Crownover; Delisi; Gonzalez Toureilles; Hope; Krusee; Ritter; Talton.

STATEMENTS OF VOTE

When Record No. 644 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

I was shown voting yes on Record No. 644. I intended to vote no.

Keel

I was shown voting yes on Record No. 644. I intended to vote no.

Rose

HB 2630 ON THIRD READING (by Hill)

HB 2630, A bill to be entitled An Act relating to procedures regarding the removal and storage of vehicles.

HB 2630 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Herrero and Leibowitz recorded voting no.)

HB 2866 ON THIRD READING (by Bailey and Edwards)

HB 2866, A bill to be entitled An Act relating to the right of certain municipalities to maintain local control over wages, hours, and other terms and conditions of employment.

HB 2866 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Miller and Zedler recorded voting no.)

HB 2866 -STATEMENT OF LEGISLATIVE INTENT

It was my intent in authoring, and the intent of the Texas Legislature in passing, **HB 2866**, Acts of the 79th Legislature, Regular Session, 2005, that the City of Houston have the authority to adopt reasonable rules to prevent the city from wasting its time and taxpayer money by accepting a petition for recognition

under Section 146.004, Local Government Code, from an organization that clearly does not meet the definition of "employee association" in Section 146.002(2), Local Government Code.

Section 146.002(2), Local Government Code, as added by **HB 2866**, defines "employee association" as follows:

(2) "Employee association" means an organization *in which municipal employees participate* and that exists for the purpose, wholly or partly, of dealing with one or more employers, whether public or private, concerning grievances, labor disputes, wages, rates of pay, hours of employment, or conditions of work affecting public employees *and whose members pay dues by means of an automatic payroll deduction*.

(Emphasis added.) By defining "employee association" as an organization "in which municipal employees participate . . . and whose members pay dues by means of an automatic payroll deduction[;]" it was my intent and the intent of the Texas Legislature to require as a prerequisite to an organization being recognized by the City of Houston as an "employee association" for purposes of Chapter 146, Local Government Code, that employees of the city participate in the organization and pay dues by means of automatic payroll deduction in accordance with any rules or procedures adopted by the city relating to automatic payroll deduction.

It was further my intent and the intent of the Texas Legislature that the City of Houston have the authority to adopt reasonable requirements for the validity of a petition for recognition under Section 146.004, Local Government Code.

Bailey

HB 3048 ON THIRD READING
(by Hopson)

HB 3048, A bill to be entitled An Act relating to insurance coverage for certain structures.

HB 3048 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 3468 ON THIRD READING
(by Isett)

HB 3468, A bill to be entitled An Act relating to an intensive reading and language intervention pilot program.

HB 3468 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Herrero and Leibowitz recorded voting no.)

HB 2716 ON THIRD READING
(by Swinford)

HB 2716, A bill to be entitled An Act relating to equal employment opportunity reports.

A record vote was requested.

HB 2716 was passed by (Record 645): 136 Yeas, 0 Nays, 2 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Castro; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Harper-Brown; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, J.; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C); Davis, Y.

Absent, Excused — Hodge.

Absent — Bonnen; Flores; Hamric; Hardcastle; Hartnett; Hope; Jones, D.; Keel; Krusee; McClendon.

STATEMENT OF VOTE

When Record No. 645 was taken, I was in the house but away from my desk. I would have voted yes.

McClendon

HB 533 ON THIRD READING (by Howard)

HB 533, A bill to be entitled An Act relating to restrictions on the automatic renewal of contracts.

HB 533 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1111 ON THIRD READING (by P. King)

HB 1111, A bill to be entitled An Act relating to admission to open-enrollment charter schools that specialize in performing arts.

HB 1111 - POINT OF ORDER

Representative Dunnam raised a point of order against further consideration of **HB 1111** under Rule 7, Section 15 and Rule 6, Section 1 of the House Rules on the grounds that **HB 1111** is being taken up before a postponed bill that was eligible prior to **HB 1111** being laid out on third reading.

The point of order was withdrawn.

HB 1111 - POINT OF ORDER

Representative Burnam raised a point of order against further consideration of **HB 1111** under Rule 6, Section 16 of the House Rules on the grounds that it violates the order of the calendar.

The point of order was withdrawn.

LEAVE OF ABSENCE GRANTED

The following member was granted leave of absence for the remainder of today because of important business in the district:

Castro on motion of Chavez.

HB 1111 - (consideration continued)

A record vote was requested.

HB 1111 was passed by (Record 646): 82 Yeas, 50 Nays, 1 Present, not voting.

Yeas — Allen, R.; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Callegari; Campbell; Casteel; Chisum; Cook, B.; Cook, R.; Corte; Crabb; Davis, J.; Dawson; Delisi; Denny; Eiland; Eissler; Elkins; Flynn; Gattis; Giddings; Goolsby; Griggs; Grusendorf; Hamilton; Hamric; Hartnett; Hegar; Hilderbran; Hill; Hochberg; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Kuempel; Laubenberg; Luna; Madden; McCall; Morrison; Mowery; Nixon; Oliveira; Orr; Otto; Paxton; Phillips; Pitts; Reyna; Riddle; Ritter; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Strama; Talton; Taylor; Truitt; Turner; Van Arsdale; Vo; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Burnam; Chavez; Coleman; Davis, Y.; Dukes; Dunnam; Dutton; Edwards; Escobar; Farabee; Farrar; Flores; Geren; Gonzales; Guillen; Haggerty; Hardcastle; Herrero; Homer; Hopson; Jones, D.; Jones, J.; King, T.; Laney; Leibowitz; Martinez; Martinez Fischer; McClendon; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Naishtat; Noriega, M.; Olivo; Pickett; Puente; Quintanilla; Raymond; Rodriguez; Solis; Solomons; Thompson; Uresti; Veasey; Villarreal.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Hodge.

Absent — Brown, F.; Crownover; Deshotel; Driver; Frost; Gallego; Gonzalez Toureilles; Goodman; Harper-Brown; Hope; Krusee; Peña; Straus; Swinford.

STATEMENTS OF VOTE

When Record No. 646 was taken, I was in the house but away from my desk. I would have voted yes.

Crownover

I was shown voting yes on Record No. 646. I intended to vote no.

Hamilton

When Record No. 646 was taken, I was in the house but away from my desk. I would have voted yes.

Harper-Brown

I was shown voting no on Record No. 646. I intended to vote yes.

Miller

HB 2941 ON THIRD READING
(by Eiland)

HB 2941, A bill to be entitled An Act relating to compensation of insurance agents.

HB 2941 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1232 ON THIRD READING
(by Castro)

HB 1232, A bill to be entitled An Act relating to the payment of certain expenses of a public project financed by certificates of obligation.

A record vote was requested.

HB 1232 was passed by (Record 647): 141 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Driver; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzales; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Hodge.

Absent — Deshotel; Harper-Brown; Hope; McReynolds; Rose.

STATEMENTS OF VOTE

When Record No. 647 was taken, I was in the house but away from my desk. I would have voted yes.

Harper-Brown

When Record No. 647 was taken, I was in the house but away from my desk. I would have voted yes.

Rose

HB 1763 ON THIRD READING
(by R. Cook and Hope)

HB 1763, A bill to be entitled An Act relating to the notice, hearing, rulemaking, and permitting procedures for groundwater conservation districts.

HB 1763 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1826 ON THIRD READING
(by Grusendorf)

HB 1826, A bill to be entitled An Act relating to the use of school district resources for the maintenance of real property not owned or leased by the district.

HB 1826 - STATEMENT OF LEGISLATIVE INTENT

REPRESENTATIVE HOMER: Mr. Grusendorf, I know what you're trying to do and I support that. But, I need to ask for legislative intent. Is it your intent to deny school districts the ability to maintain their property, even if it requires them to get off their property—such as mow the perimeter?

REPRESENTATIVE GRUSENDORF: No, not at all. As I talked to you yesterday, our problem is that we've got at least one school district in the State of Texas that is trying to go into the construction business. We want them to focus on educating the kids in that district.

HOMER: Thank you.

REMARKS ORDERED PRINTED

Representative Homer moved to print remarks between Representative Grusendorf and Representative Homer.

The motion prevailed.

A record vote was requested.

HB 1826 was passed by (Record 648): 125 Yeas, 4 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anderson; Bailey; Baxter; Berman; Blake; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Hamilton; Hamric; Hardcastle; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg; Homer; Hopson; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Miller;

Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Seaman; Smith, T.; Smithee; Solis; Straus; Swinford; Talton; Thompson; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley.

Nays — Anchia; Davis, Y.; Noriega, M.; Strama.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Hodge.

Absent — Bohac; Deshotel; Driver; Gonzales; Haggerty; Harper-Brown; Hope; Howard; Hughes; Krusee; Merritt; Rose; Smith, W.; Solomons; Taylor; Truitt; Zedler.

STATEMENTS OF VOTE

When Record No. 648 was taken, I was in the house but away from my desk. I would have voted yes.

Bohac

When Record No. 648 was taken, I was in the house but away from my desk. I would have voted yes.

Gonzales

When Record No. 648 was taken, I was in the house but away from my desk. I would have voted yes.

Harper-Brown

When Record No. 648 was taken, I was in the house but away from my desk. I would have voted yes.

Merritt

When Record No. 648 was taken, I was in the house but away from my desk. I would have voted yes.

Taylor

When Record No. 648 was taken, I was in the house but away from my desk. I would have voted yes.

Zedler

HB 1462 ON THIRD READING

(by Flores)

HB 1462, A bill to be entitled An Act relating to the referral by the Texas Water Development Board of certain persons to another state agency, office, or division for investigation or enforcement action.

HB 1462 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1854 ON THIRD READING
(by Giddings)

HB 1854, A bill to be entitled An Act relating to requiring debt collectors to provide a copy of a dishonored check to certain consumers; providing a civil penalty.

HB 1854 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2492 ON THIRD READING
(by Puente)

HB 2492, A bill to be entitled An Act relating to the authority of certain persons to bring suit to require an appraisal district or appraisal review board to comply with applicable law.

HB 2492 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2639 ON THIRD READING
(by Geren)

HB 2639, A bill to be entitled An Act relating to the powers and duties of the Tarrant Regional Water District.

HB 2639 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 211 ON THIRD READING
(by Guillen, M. Noriega, Martinez, Leibowitz, Alonzo, et al.)

HB 211, A bill to be entitled An Act relating to the effect that certain orders relating to family violence and certain decisions regarding military service have on residential leases.

A record vote was requested.

HB 211 was passed by (Record 649): 139 Yeas, 0 Nays, 1 Present, not voting.

Yeas — Allen, A.; Allen, R.; Alonzo; Anchia; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Callegari; Campbell; Casteel; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Corte; Crabb; Crownover; Davis, J.; Davis, Y.; Dawson; Delisi; Denny; Deshotel; Dukes; Dunnam; Dutton; Edwards; Eiland; Eissler; Elkins; Escobar; Farabee; Farrar; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Gonzalez Toureilles; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Herrero; Hilderbran; Hill; Hochberg;

Homer; Hopson; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; King, T.; Kolkhorst; Kuempel; Laney; Laubenberg; Leibowitz; Luna; Madden; Martinez; Martinez Fischer; McCall; McReynolds; Menendez; Merritt; Miller; Moreno, P.; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Olivo; Orr; Otto; Paxton; Peña; Phillips; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solis; Solomons; Strama; Straus; Swinford; Talton; Taylor; Thompson; Truitt; Turner; Uresti; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Present, not voting — Mr. Speaker(C).

Absent, Excused — Castro; Hodge.

Absent — Burnam; Driver; Flores; Gonzales; Hope; Krusee; McClendon.

STATEMENT OF VOTE

When Record No. 649 was taken, I was in the house but away from my desk. I would have voted yes.

Gonzales

HB 2339 ON THIRD READING (by Corte and Baxter)

HB 2339, A bill to be entitled An Act relating to the provision of mail ballots to overseas voters and to conforming adjustments to related dates, deadlines, and procedures.

HB 2339 was passed. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

GENERAL STATE CALENDAR HOUSE BILLS SECOND READING

The following bills were laid before the house and read second time:

CSHB 2300 ON SECOND READING (by Turner)

CSHB 2300, A bill to be entitled An Act relating to the authority of metropolitan rapid transit authorities to enter into comprehensive development agreements.

Amendment No. 1

Representative Turner offered the following amendment to **CSHB 2300**:

Amend **CSHB 2300** by striking all below the enacting clause and substituting the following:

SECTION 1. Chapter 451, Transportation Code, is amended by adding Subchapter Q to read as follows:

SUBCHAPTER Q. HYBRID DELIVERY SYSTEM FOR CERTAIN
CONSTRUCTION PROJECTS

Sec. 451.801. DEFINITIONS. In this subchapter:

(1) "Civil works components" means:

(A) underground utilities;

(B) paving;

(C) drainage;

(D) structures, including elevated platforms and bridges;

(E) components related to vehicular traffic;

(F) primary power distribution systems;

(G) transfer stations, depots, and other architectural features, including related mechanical, electrical, and plumbing systems; and

(H) all other aspects of a project not defined as system components.

(2) "System components" means the components of a rail system that are related directly to system operations, including rolling stock, tracks, guideway systems, and special signal and communications systems.

(3) "Design development" means drawings and other documents that are:

(A) approximately 30 percent complete; and

(B) sufficient to fix and describe the size and character of the project as to civil work, architectural systems, structural systems, mechanical and electrical systems, materials, equipment, and technology, including schematic layouts and conceptual design criteria.

(4) "Facility" means a single transit project:

(A) with a proposed cost of more than \$100 million; or

(B) as identified in a referendum approved by the voters.

(5) "Facility provider" means a partnership, corporation, joint venture, consortium, special purchase company, or other legal entity or team responsible for:

(A) providing and installing the system components for a facility;

and

(B) constructing the associated civil works components.

(6) "Hybrid delivery system" means the alternative procurement procedure provided by this subchapter.

Sec. 451.802. APPLICABILITY. This subchapter applies only to an authority in which the principal municipality has a population of more than 1.2 million.

Sec. 451.803. USE PERMITTED. Notwithstanding any other law, an authority may use a hybrid delivery system for construction of a facility as provided by this subchapter.

Sec. 451.804. SELECTION OF ENGINEER OR TEAM. (a) An authority shall select an engineer or an engineering and architecture team for the design of the civil works components of the facility. The authority shall select an engineer or team in accordance with Section 2254.004, Government Code.

(b) A selected engineer or team shall comply with Chapter 1001, Occupations Code.

(c) The authority shall enter into a contract with the selected engineer or team to provide planning and design development services and an estimate of final design costs. The contract may also include construction management.

Sec. 451.805. REQUEST FOR PROPOSALS. After the completion of design development documents by the engineer or team, the authority shall issue requests for proposals from facility providers. The request for proposals shall include general information on the project site, project scope, budget, schedule, system criteria, selection criteria, and any other information that may assist potential facility providers in submitting proposals for the project.

Sec. 451.806. EVALUATION OF PROPOSALS. (a) For each proposal submitted by a facility provider in response to a request for proposals, the authority shall evaluate:

- (1) the provider's experience and qualifications;
- (2) the provider's technical competence and capability to perform;
- (3) the provider's past performance, including past performance of members of the provider's team;
- (4) proposed technology;
- (5) feasibility of implementing the project as proposed;
- (6) costing methodology; and
- (7) other information submitted on the basis of the selection criteria stated in the request for proposals.

(b) The authority shall rank two to four facility providers that best meet the selection criteria.

Sec. 451.807. SELECTION OF FACILITY PROVIDER. (a) The authority shall select the facility provider that submits the proposal that offers the best value for the authority on the basis of the published selection criteria and price.

(b) The authority shall first attempt to negotiate a contract with the first-ranked provider in the order of the ranking established under Section 451.806(b). The authority and the engineer or team selected under Section 451.804 may discuss with the selected provider options for a scope or time modification and any price change associated with the modification before finalizing a contract with the selected provider. If the authority is unable to negotiate a contract with the selected provider, the authority shall end negotiations with the selected provider in writing and proceed to negotiate a contract with the next provider in the order of the ranking established under Section 451.806(b) until a contract is entered into or all proposals are rejected.

Sec. 451.808. FINAL DESIGN CONTRACTS. (a) In consultation with the selected facility provider, the authority shall negotiate with the engineer or team selected under Section 451.804 on the:

- (1) scope of work and fees associated with final design of the civil works components; and
- (2) integration of system components and civil works components of the facility.

(b) A contract for final design shall be incorporated into the authority's contract with the selected facility provider. Any subsequent changes to a contract with the engineer or team must be approved by the facility provider and the authority.

(c) In a contract with a selected facility provider, the authority shall provide a mechanism under which issues of design quality, quality assurance, code compliance, value engineering, or life cycle costing may be communicated directly by the engineer or team to the facility provider and the authority with the intent of seeking the authority's approval of proposed action.

(d) The selected facility provider's oversight of the engineer or team is limited to:

(1) design management;

(2) coordination of the civil works components;

(3) integration of the design of system components into the civil works;

and

(4) the acceptance of items listed under Subdivisions (1)-(3) with regard to the facility provider's assumption of responsibility for contract compliance, performance warranties and guarantees, and other risk-related items as stipulated in the contract between the selected facility provider and the authority.

(e) Fees associated with the items listed in Subsection (d) may not exceed eight percent of final design fees unless otherwise amended by the engineer or team through allocation of a portion of the engineer or team fee to the selected facility provider for specialty design assistance.

Sec. 451.809. USE OF OTHER PROFESSIONAL SERVICES. (a) If the authority performs periodic audits of its construction materials, the authority, independent of the selected facility provider, shall contract for the inspection and testing of construction materials and other verification testing services necessary for the acceptance of the facility by the authority.

(b) A contract under Subsection (a) does not alleviate the selected facility provider's responsibility to provide the services described by Subsection (a) under a contract entered into under this subchapter.

(c) A contract described by Subsection (a) and any additional contract for engineering or architecture services entered into by the selected facility provider for the design and construction of the facility must be entered into in accordance with Section 2254.004, Government Code.

Sec. 451.810. CONSTRUCTION WORK SUBCONTRACTED. (a) The authority may require that the selected facility provider publicly advertise for and receive bids or proposals from trade contractors or subcontractors for the construction of civil works components of the facility.

(b) The selected facility provider may submit a bid or proposal for the work described in Subsection (a) in the same manner as other trade contractors or subcontractors.

Sec. 451.811. LOCAL PREFERENCE. To the maximum extent permitted by law, the authority shall use vendors and providers of services with an established office in the principal municipality.

Sec. 451.812. EXPIRATION. This subchapter expires on August 31, 2015.

SECTION 2. Section 451.110(a), Transportation Code, is amended to read as follows:

(a) Except as provided by Subsection (c) and by Subchapter Q, a board may not contract for the construction of an improvement or the purchase of any property, except through competitive bidding after notice of the contract proposal. The notice must be published in a newspaper of general circulation in the area in which the authority is located at least once each week for two consecutive weeks before the date set for receiving the bids. The first notice must be published at least 15 days before the date set for receiving bids.

SECTION 3. Section 451.111(a), Transportation Code, is amended to read as follows:

(a) Except as provided by Subchapter Q, unless ~~[Unless]~~ the posting requirement in Subsection (b) is satisfied, a board may not let a contract that is:

- (1) for more than \$25,000; and
- (2) for:
 - (A) the purchase of real property; or
 - (B) consulting or professional services.

SECTION 4. This Act takes effect September 1, 2005.

Amendment No. 2

Representative Turner offered the following amendment to Amendment No. 1:

Amend Floor Amendment No. 1 by Turner to **CSHB 2300** as follows:

On page 1, line 21 strike the word "rail" and substitute "transit"

Amendment No. 2 was adopted.

Amendment No. 1, as amended, was adopted.

CSHB 2300, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Eissler recorded voting no.)

CSHB 273 ON SECOND READING

(by Farrar, M. Noriega, Thompson, Vo, and J. Moreno)

CSHB 273, A bill to be entitled An Act relating to the regulation of certain alcoholic beverage retailers; providing an administrative penalty.

CSHB 273 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 275 ON SECOND READING

(by Farrar, M. Noriega, Thompson, Vo, and J. Moreno)

CSHB 275, A bill to be entitled An Act relating to the application fee for wine and beer retailer's permits and retail dealer's on-premise licenses.

CSHB 275 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 1252 ON SECOND READING
(by Guillen, Escobar, and Leibowitz)

CSHB 1252, A bill to be entitled An Act relating to providing services for persons with chronic kidney disease under the medical assistance program.

CSHB 1252 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Harper-Brown recorded voting no.)

CSHB 3169 ON SECOND READING
(by Crownover)

CSHB 3169, A bill to be entitled An Act relating to purchase of equivalent membership service credit in the Teacher Retirement System of Texas.

CSHB 3169 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Bailey, Herrero, Leibowitz, and Rose recorded voting no.)

HB 1896 ON SECOND READING
(by Hodge, Madden, R. Allen, and Haggerty)

HB 1896, A bill to be entitled An Act relating to the application of laws awarding credit to an inmate for time between release on and subsequent revocation of parole, mandatory supervision, or conditional pardon.

Amendment No. 1

Representative Madden offered the following amendment to **HB 1896**:

Amend **HB 1896** (house committee printing) on page 1, by striking lines 13-17, and substituting the following:

"SECTION 2. This Act takes effect September 1, 2006."

Amendment No. 1 was adopted.

HB 1896, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Harper-Brown and Phillips recorded voting no.)

SB 122 ON SECOND READING
(Giddings - House Sponsor)

SB 122, A bill to be entitled An Act relating to the prevention and punishment of identity theft and the rights of certain victims of identity theft; providing penalties.

SB 122 was considered in lieu of **HB 1321**.

Amendment No. 1

Representative Giddings offered the following amendment to **SB 122**:

Amend **SB 122** in SECTION 2 of the bill, in added Section 48.101 (b), Business & Commerce Code (House Committee Printing, page 3, lines 25-26), by striking "an affirmative defense to prosecution under this section" and substituting "a defense to an auction brought under this section".

Amendment No. 1 was adopted.

Amendment No. 2

Representative Giddings offered the following amendment to **SB 122**:

Amend **SB 122** in SECTION 2 of the bill, in added Section 48.103, Business & Commerce Code (House Committee Printing, page 6, lines 21-26), by striking proposed Subsection (g) and substituting the following:

(g) Notwithstanding Subsection (e), a person complies with the notice requirements of this section if, when a breach of system security occurs, the person notifies affected persons in accordance with notification procedures maintained by the person:

(1) as part of an information security policy for the treatment of sensitive personal information that complies with the timing requirements for notice under this section; or

(2) in accordance with the rules, regulations, procedures, or guidelines established by the person's primary or functional federal regulator.

Amendment No. 2 was withdrawn.

Amendment No. 3

Representative Giddings offered the following amendment to **SB 122**:

Amend **SB 122** as follows:

(1) Add the following appropriately numbered SECTION to the bill and renumber subsequent SECTIONS of the bill accordingly:

SECTION ____ (a) Subchapter D, Chapter 35, Business & Commerce Code, is amended by adding Section 35.395 to read as follows:

Sec. 35.395. DELIVERY OF A CHECK FORM. (a) In this section:

(1) "Addressee" means a person to whom a check form is sent.

(2) "Check form" means a device for the transmission or payment of money that:

(A) is not a negotiable instrument under Section 3.104;

(B) if completed would be a check as that term is described by Section 3.104; and

(C) is printed with information relating to the financial institution on which the completed check may be drawn.

(3) "Courier" means a business, other than the United States Postal Service, that delivers parcels for a fee.

(b) A person who prints a check form must provide an addressee the option of selecting a courier for delivery of a check form and must notify the addressee of this option. If an addressee selects a courier for delivery of a check form, the signature of the addressee or the addressee's representative must be obtained on delivery, unless the addressee specifically notifies the person who prints the check form, or the person's agent, that the signature of the addressee or the addressee's representative is not required for delivery. The notification may be made in writing on the check form order, by electronic selection if the check forms are ordered using the Internet, by electronic mail to an address provided to the addressee by the person who prints the check form or the person's agent, by recorded oral notice, or by another method reasonably calculated to effectively communicate the addressee's intent.

(c) A person who prints a check form shall notify the courier of the check form if the signature of the addressee or the addressee's representative is required for delivery under Subsection (b).

(d) A person who violates Subsection (b) or (c) is subject to a civil penalty of \$1,000 for each violation.

(e) A courier who is notified under Subsection (c) that a signature is required for delivery may not deliver the check form before obtaining the signature of the addressee or a representative of the addressee. A courier who violates this subsection is subject to a civil penalty of \$1,000 for each violation.

(f) The attorney general may bring suit to recover a civil penalty imposed under this section. The attorney general may recover reasonable expenses incurred in obtaining a civil penalty under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition expenses.

(g) This section applies only to an addressee located in the delivery area of a courier. This section does not require a courier to deliver a check form to an addressee who is not located in the delivery area of the courier.

(b) The changes in law made by Section 35.395, Business & Commerce Code, as added by this section, do not apply to the delivery of check forms if the addressee uses a check form order form that does not include an option to select a signature requirement and submits the order form before June 1, 2006.

(c) This section takes effect January 1, 2006.

(2) In SECTION 3 of the bill (House committee printing, page 11, line 3), strike "This" and substitute "Except as otherwise provided by this Act, this".

Amendment No. 3 was adopted.

Amendment No. 4

Representative Giddings offered the following amendment to **SB 122**:

Amend **SB 122** as follows:

On Page 6, strike Lines 21 through 26 in their entirety and substitute in lieu thereof the following:

"(g) Notwithstanding Subsection (e), a person complies with the notice requirements of this section if, when a breach of security occurs, the person notifies affected persons in accordance with notification procedures maintained by that person:

(1) as part of an information security policy for the treatment of sensitive personal information that complies with the timing requirements for notice under this section; or

(2) in accordance with the rules, regulations, procedures, or guidelines established by the primary or functional federal regulator."

Amendment No. 4 was adopted.

SB 122, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1321 - LAID ON THE TABLE SUBJECT TO CALL

Representative Giddings moved to lay **HB 1321** on the table subject to call.

The motion prevailed.

CSHB 1570 ON SECOND READING (by Taylor)

CSHB 1570, A bill to be entitled An Act relating to certain health benefit plans.

CSHB 1570 - POINT OF ORDER

Representative Gallego raised a point of order against further consideration of **CSHB 1570** under Rule 4, Section 32 of the House Rules on the grounds that the standing committee reports were not duplicated.

The speaker overruled the point of order.

Amendment No. 1

Representative Taylor offered the following amendment to **CSHB 1570**:

Amend **CSHB 1570** as follows:

(1) Page 1, line 4, through Page 2, line 8, delete SECTIONS 1 and 2 and renumber accordingly.

Amendment No. 1 was adopted.

Amendment No. 2

Representative Dukes offered the following amendment to **CSHB 1570**:

Amend **CSHB 1570** by inserting the following appropriately numbered SECTIONS and renumbering SECTIONS of the bill appropriately:

SECTION _____. Subchapter F, Chapter 1451, Insurance Code, is amended by adding Section 1451.2525 to read as follows:

Sec. 1451.2525. APPLICABILITY TO STANDARD HEALTH BENEFIT PLANS. The subchapter applies to a standard health benefit plan offered under Article 3.80, Article 20A.9N, or Chapter 1507.

SECTION _____. The change in law made by Section 1451.2525, Insurance Code, as added by this Act, applies only to a health benefit plan contract or evidence of coverage delivered, issued for delivery, or renewed on or after January 1, 2006. A health benefit plan contract or evidence of coverage delivered, issued for delivery, or renewed before January 1, 2006, is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

Amendment No. 2 was adopted.

CSHB 1570, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Burnam, Coleman, Gallego, Herrero, Leibowitz, Menendez, Naishtat, and Rodriguez recorded voting no.)

CSHB 1342 ON SECOND READING
(by Hochberg)

CSHB 1342, A bill to be entitled An Act relating to the imposition of the sales and use tax on certain sales made by individuals.

CSHB 1342 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 1027 ON SECOND READING
(T. King - House Sponsor)

SB 1027, A bill to be entitled An Act relating to the authority of the board of directors of the Maverick County Hospital District to employ health care providers.

SB 1027 was considered in lieu of **HB 1456**.

SB 1027 was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Branch and Delisi recorded voting no.)

HB 1456 - LAID ON THE TABLE SUBJECT TO CALL

Representative T. King moved to lay **HB 1456** on the table subject to call.

The motion prevailed.

CSHB 1822 ON SECOND READING
(by Kolkhorst)

CSHB 1822, A bill to be entitled An Act relating to an offense of passing or avoiding a weigh station by certain vehicle operators.

CSHB 1822 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 2421 ON SECOND READING
(by Chavez, Villarreal, and Castro)

CSHB 2421, A bill to be entitled An Act relating to the use of an employer assessment to fund the skills development program and authorizing the Texas Workforce Commission to develop new job incentive programs.

CSHB 2421 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Eissler and Flynn recorded voting no.)

CSHB 2901 ON SECOND READING
(by Hilderbran)

CSHB 2901, A bill to be entitled An Act relating to a deer breeder's permit.

CSHB 2901 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 3221 ON SECOND READING
(by Callegari)

CSHB 3221, A bill to be entitled An Act relating to the records of certain vehicle repairs, sales, and purchases; providing penalties.

CSHB 3221 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 3409 ON SECOND READING
(by Rose)

CSHB 3409, A bill to be entitled An Act relating to the application of the municipal civil service law for firefighters and police officers to certain municipalities.

CSHB 3409 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 1574 ON SECOND READING
(by Miller, McCall, Raymond, and Truitt)

CSHB 1574, A bill to be entitled An Act relating to the offense of fraudulent use or possession of a person's identifying information.

Amendment No. 1

Representative Miller offered the following amendment to **CSHB 1574**:

Amend **CSHB 1574** as follows:

- (1) On page 1, strike lines 20-21 and substitute the following:
SECTION 2. Section 32.51(b), Penal Code, is amended to read as follows:
- (2) On page 2, strike lines 5-7.

Amendment No. 1 was adopted.

Amendment No. 2

On behalf of Representative Truitt, Representative Miller offered the following amendment to **CSHB 1574**:

Amend **CSHB 1574** as follows:

- (1) On page 1, line 9, between "individual" and the comma, by inserting "or a deceased natural person".
- (2) On page 1, line 9, between "individual's" and the colon, insert "or a deceased natural person's".

Amendment No. 2 was adopted.

CSHB 1574, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 1655 ON SECOND READING

(by J. Keffer, McReynolds, Blake, Bonnen, Dawson, et al.)

CSHB 1655, A bill to be entitled An Act relating to funding for the Texas statewide emergency services personnel retirement fund.

Amendment No. 1

Representative J. Keffer offered the following amendment to **CSHB 1655**:

Amend **CSHB 1655** by striking lines 7-17 and substituting the following:

Sec. 221.008. USE OF CERTAIN TAX. (a) Of the tax collected under this chapter and attributable to gross premiums for fire insurance and allied lines:

(1) the amount of \$6.7 million shall be deposited to the credit of the Texas statewide emergency services personnel retirement trust fund on or before March 15, 2006; and

(2) the amount of \$6.7 million shall be deposited to the credit of the Texas statewide emergency services personnel retirement trust fund on or before March 15, 2007.

(b) This section expires December 31, 2007.

Amendment No. 1 was adopted.

CSHB 1655, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1481 ON SECOND READING
(by Gattis)

HB 1481, A bill to be entitled An Act relating to the offense of disobeying certain motor vehicle traffic warning devices.

HB 1481 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

SB 624 ON SECOND READING
(Talton - House Sponsor)

SB 624, A bill to be entitled An Act relating to the regulation of bail bond sureties.

SB 624 was considered in lieu of **HB 1990**.

Amendment No. 1

Representative Flynn offered the following amendment to **SB 624**:

Amend **SB 624** (House Committee Report) by striking SECTIONS 2, 3, 4, and 7 of the bill (page 1, line 9, through page 2, line 4, and page 4, lines 4 through 9) and renumbering subsequent SECTIONS of the bill accordingly.

Amendment No. 1 was adopted.

(Hill in the chair)

SB 624, as amended, was passed to third reading. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1990 - LAID ON THE TABLE SUBJECT TO CALL

Representative Talton moved to lay **HB 1990** on the table subject to call.

The motion prevailed.

(Speaker in the chair)

CSHB 2157 ON SECOND READING
(by Smithee)

CSHB 2157, A bill to be entitled An Act relating to the receivership of insurers in this state; providing penalties.

Amendment No. 1

Representative Smithee offered the following amendment to **CSHB 2157**:

Amend **CSHB 2157** as follows:

1. Amend Sec. 20A.014 on page 33, line 13, by inserting new language following the word "court" as follows:

" , providing that the alleged act, error or omission is performed in good faith."

2. Amend Sec. 20A.014 on page 33, line 13 through line 17, by deleting the following language:

~~"Nothing in this provision may be construed to hold the receiver or any assistant or contractor immune from suit or liability for any damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the receiver, any assistant, or contractor."~~

Amendment No. 1 was adopted.

CSHB 2157, as amended, was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 2180 ON SECOND READING

(by Anderson and Dawson)

HB 2180, A bill to be entitled An Act relating to donees of anatomical gifts.

HB 2180 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 615 ON SECOND READING

(by Puente)

HB 615, A bill to be entitled An Act relating to a defendant's right to appear by counsel in certain misdemeanor cases.

HB 615 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 1234 ON SECOND READING

(by Paxton)

CSHB 1234, A bill to be entitled An Act relating to the appointment of substitute trustees in certain foreclosures.

CSHB 1234 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

CSHB 2471 ON SECOND READING

(by Delisi)

CSHB 2471, A bill to be entitled An Act relating to authorizing the Department of State Health Services to issue a single license for multiple hospitals.

CSHB 2471 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 3152 ON SECOND READING
(by Escobar and Hodge)

HB 3152, A bill to be entitled An Act relating to procedures applicable to waivers of the right to counsel.

HB 3152 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 3357 ON SECOND READING
(by Delisi)

HB 3357, A bill to be entitled An Act relating to certain information required to be contained in an application for or renewal of a hospital license.

HB 3357 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1636 ON SECOND READING
(by R. Allen)

HB 1636, A bill to be entitled An Act relating to proof of residency for the purpose of obtaining a license or permit issued by the Parks and Wildlife Department.

HB 1636 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. No members registered their position on this measure.)

HB 1859 ON SECOND READING
(by Uresti)

HB 1859, A bill to be entitled An Act relating to a court's continuing jurisdiction to handle the disposition of a felony case.

HB 1859 was passed to engrossment. (In accordance with House Rule 5, Section 51(b), every member present must have favored passage of the measure, but any member may register their position with the journal clerk. Members registering votes are as follows: Chisum, Harper-Brown, Howard, and Phillips recorded voting no.)

CSHB 3174 ON SECOND READING
(by Truitt)

CSHB 3174, A bill to be entitled An Act relating to the licensing and regulation of wholesale drug distributors; providing penalties.

Representative Truitt moved to postpone consideration of **CSHB 3174** until 10 a.m. June 1.

The motion prevailed.

HB 31 ON SECOND READING
(by Eissler)

HB 31, A bill to be entitled An Act relating to state assessment of public school students in social studies in the fifth grade.

Amendment No. 1

Representative Eissler offered the following amendment to **HB 31**:

Amend **HB 31** as follows:

(1) On page 1, after line 24, insert the following appropriately numbered SECTIONS to the bill and renumber subsequent SECTIONS appropriately:

SECTION __. Subchapter B, Chapter 39, Education Code, is amended by adding Section 39.0232 to read as follows:

Sec. 39.0232. ASSESSMENT IN SOCIAL STUDIES: FIFTH GRADE. (a) As provided by this section, students in grade five may be assessed in social studies as required by Section 39.023(a)(5) through the administration of the reading assessment instrument required by Section 39.023(a)(2).

(b) Selections included in the reading assessment instrument for grade five under Section 39.023(a)(2) shall contain historical selections with an emphasis on primary source documents.

(c) The commissioner by rule may:

(1) determine the portion of the selections to include in the reading assessment instrument for purposes of assessing essential knowledge and skills in social studies for students in grade five; and

(2) develop procedures for segregating the reporting of results of student performance on the fifth grade social studies portion of the reading assessment instrument under this section.

(2) On page 2, line 3, after "Act", insert ", or Section 39.0232, Education Code, as added by this Act".

Amendment No. 1 was adopted. (Farrar recorded voting no.)

A record vote was requested.

HB 31, as amended, was passed to engrossment by (Record 650): 122 Yeas, 20 Nays, 2 Present, not voting.

Yeas — Allen, R.; Anderson; Bailey; Baxter; Berman; Blake; Bohac; Bonnen; Branch; Brown, B.; Brown, F.; Burnam; Callegari; Campbell; Casteel; Chavez; Chisum; Coleman; Cook, B.; Cook, R.; Crabb; Crownover; Davis, J.; Dawson; Delisi; Denny; Deshotel; Driver; Dukes; Dunnam; Edwards; Eiland;

Eissler; Elkins; Farabee; Flores; Flynn; Frost; Gallego; Gattis; Geren; Giddings; Goodman; Goolsby; Griggs; Grusendorf; Guillen; Haggerty; Hamilton; Hamric; Hardcastle; Harper-Brown; Hartnett; Hegar; Hill; Hochberg; Homer; Howard; Hughes; Hunter; Hupp; Isett; Jackson; Jones, D.; Jones, J.; Keel; Keffer, B.; Keffer, J.; King, P.; Kolkhorst; Krusee; Kuempel; Laney; Laubenberg; Luna; Madden; Martinez; Martinez Fischer; McCall; McClendon; McReynolds; Menendez; Merritt; Miller; Morrison; Mowery; Naishtat; Nixon; Noriega, M.; Oliveira; Otto; Paxton; Peña; Pickett; Pitts; Puente; Quintanilla; Raymond; Reyna; Riddle; Ritter; Rodriguez; Rose; Seaman; Smith, T.; Smith, W.; Smithee; Solomons; Straus; Swinford; Talton; Taylor; Truitt; Turner; Van Arsdale; Veasey; Villarreal; Vo; West; Wong; Woolley; Zedler.

Nays — Allen, A.; Alonzo; Anchia; Davis, Y.; Dutton; Escobar; Farrar; Gonzales; Gonzalez Tourelles; Herrero; Hopson; King, T.; Leibowitz; Moreno, P.; Olivo; Phillips; Solis; Strama; Thompson; Uresti.

Present, not voting — Mr. Speaker(C); Orr.

Absent, Excused — Castro; Hodge.

Absent — Corte; Hilderbran; Hope.

FIVE DAY POSTING RULE SUSPENDED

Representative Delisi moved to suspend the five day posting rule to allow the Committee on Public Health to consider **SB 271**, **SB 626**, **SB 1524**, and **SB 1525** upon final adjournment today, May 13, in E2.036.

The motion prevailed.

COMMITTEE MEETING ANNOUNCEMENTS

The following committee meetings were announced:

Public Health, upon final adjournment today, May 13, E2.036, for a public hearing, to consider **SB 271**, **SB 626**, **SB 1524**, and **SB 1525**.

Regulated Industries, upon first adjournment today, May 13, Desk 82, for a formal meeting, to consider committee business.

PROVIDING FOR RECESS

Representative Bonnen moved that, at the conclusion of the reading of bills and resolutions on first reading and referral to committees, the house recess until 9 a.m. today, May 13, in memory of Bruno Medrano Lopez of Missouri City.

The motion prevailed.

BILLS AND JOINT RESOLUTIONS ON FIRST READING AND REFERRAL TO COMMITTEES RESOLUTIONS REFERRED TO COMMITTEES

Bills and joint resolutions were at this time laid before the house, read first time, and referred to committees. Resolutions were at this time laid before the house and referred to committees. (See the addendum to the daily journal, Referred to Committees, List No. 1.)

(Anderson in the chair)

RECESS

In accordance with a previous motion, the house, at 12:13 a.m., recessed until 9 a.m. today, May 13.

ADDENDUM

REFERRED TO COMMITTEES

The following bills and joint resolutions were today laid before the house, read first time, and referred to committees, and the following resolutions were today laid before the house and referred to committees. If indicated, the chair today corrected the referral of the following measures:

List No. 1

HB 3592 (By B. Keffer), Relating to certain elevated projects of the Texas Department of Transportation.

To Transportation.

HCR 167 (By Flynn, Eissler, Bailey, Keel, et al.), Requesting the speaker and lieutenant governor to create a joint interim committee to study the issue of steroid use in Texas public schools.

To Public Education.

HCR 168 (By Rose), Recognizing the problem of obesity in Texas and encouraging awareness of prevention and treatment methods.

To Public Health.

HCR 169 (By Rose), Honoring Hulda Kercheville on the occasion of her retirement from Hernandez Intermediate School in San Marcos.

To Rules and Resolutions.

HCR 171 (By Chavez), Memorializing Congress to direct the Federal Railroad Administration, U.S. Department of Transportation, to issue mandatory safety regulations for remote control locomotive operations along the Texas-Mexico border, including prohibitions relating to hazardous materials.

To Transportation.

HCR 172 (By Escobar, Anchia, Guillen, and Peña), Designating Jim Hogg County as the official Vaquero Capital of Texas.

To Culture, Recreation, and Tourism.

HCR 174 (By Paxton), Honoring Olympic gold medalist Carly Patterson.

To Rules and Resolutions.

HCR 175 (By Homer), In memory of Dave L. Rodgers of Paris.

To Rules and Resolutions.

HCR 176 (By Homer), In memory of Dr. Raymond Armstrong of Paris.

To Rules and Resolutions.

HCR 177 (By Homer), In memory of Dr. John Larry Walker of Paris.
To Rules and Resolutions.

HCR 178 (By Homer), In memory of Mary Lou Williams of Paris.
To Rules and Resolutions.

HCR 179 (By Homer), In memory of Patsy Brulte Kemp of Paris.
To Rules and Resolutions.

HCR 180 (By Homer), In memory of Frances Ellis of Paris.
To Rules and Resolutions.

HCR 181 (By Homer), In memory of Juanita Stamper of Paris.
To Rules and Resolutions.

HCR 182 (By Homer), In memory of Wynona Harper Harrison of Paris.
To Rules and Resolutions.

HCR 183 (By Homer), In memory of William Merritt Noel of Paris.
To Rules and Resolutions.

HCR 184 (By Homer), In memory of Richard J. Rast of Howland.
To Rules and Resolutions.

HCR 187 (By Rose), Designating the Hill Country as the Official Lavender Growing Region of Texas.

To Culture, Recreation, and Tourism.

HCR 188 (By Rose), Designating the Blanco Lavender Festival as the Official Lavender Festival of Texas.

To Culture, Recreation, and Tourism.

SB 18 to Ways and Means.

SB 107 to Law Enforcement.

SB 112 to Law Enforcement.

SB 344 to Natural Resources.

SB 452 to State Affairs.

SB 555 to Civil Practices.

SB 615 to Criminal Jurisprudence.

SB 623 to State Affairs.

SB 724 to Local Government Ways and Means.

SB 727 to State Affairs.

SB 751 to Pensions and Investments.

SB 757 to Pensions and Investments.

SB 769 to Corrections.

SB 841 to Urban Affairs.

SB 892 to Business and Industry.

- SB 951** to County Affairs.
- SB 1003** to Judiciary.
- SB 1043** to Public Education.
- SB 1105** to Defense Affairs and State-Federal Relations.
- SB 1120** to Public Education.
- SB 1140** to State Affairs.
- SB 1248** to Public Education.
- SB 1319** to Pensions and Investments.
- SB 1379** to Public Health.
- SB 1440** to Local Government Ways and Means.
- SB 1452** to Higher Education.
- SB 1458** to State Affairs.
- SB 1564** to Insurance.
- SB 1582** to Human Services.
- SB 1645** to Urban Affairs.
- SB 1657** to Juvenile Justice and Family Issues.
- SB 1685** to Public Health.
- SB 1749** to Public Health.
- SB 1762** to Transportation.
- SB 1768** to Business and Industry.
- SB 1772** to Natural Resources.
- SB 1780** to Higher Education.
- SB 1820** to Urban Affairs.
- SB 1836** to Urban Affairs.
- SB 1844** to Higher Education.
- SB 1852** to Higher Education.
- SB 1856** to Local Government Ways and Means.
- SB 1872** to Natural Resources.
- SB 1873** to Natural Resources.
- SB 1874** to Transportation.
- SB 1879** to Natural Resources.
- SB 1883** to Higher Education.
- SB 1887** to Natural Resources.
- SB 1888** to Natural Resources.

SB 1889 to Natural Resources.

SB 1892 to Natural Resources.

SCR 30 to Border and International Affairs.

SJR 44 to County Affairs.

SIGNED BY THE SPEAKER

The following bills and resolutions were today signed in the presence of the house by the speaker:

House List No. 41

HB 1025, HCR 156, HCR 170

Senate List No. 19

SB 220, SB 879, SB 1593, SB 1621

MESSAGES FROM THE SENATE

The following messages from the senate were today received by the house:

Message No. 1

MESSAGE FROM THE SENATE

SENATE CHAMBER

Austin, Texas

Thursday, May 12, 2005 - 2

The Honorable Speaker of the House

House Chamber

Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

LOCAL AND UNCONTESTED CALENDAR

HB 25 Delisi SPONSOR: Van de Putte
Relating to admission to and transition assistance within the public school system for school-age dependents of military personnel and other students.

HB 81 Riddle SPONSOR: Janek
Relating to release by the comptroller of unclaimed property subject to a child support lien.

HB 162 McCall SPONSOR: Carona
Relating to certain procedures related to the possible exposure to certain diseases.

HB 203 Goodman SPONSOR: Harris
Relating to consideration of taxes in the division of property in the dissolution of a marriage.

- HB 204** Goodman SPONSOR: Harris
Relating to inheritance rights of adopted adults.
- HB 207** Goodman SPONSOR: Brimer
Relating to the reduction of registration, license, and renewal fees required to be paid by certain land surveyors.
- HB 210** Solomons SPONSOR: Shapleigh
Relating to the regulation of certain telemarketing calls.
- HB 230** Hartnett SPONSOR: Harris
Relating to grounds for removal of a guardian.
- HB 263** Madden SPONSOR: Shapiro
Relating to the civil service status of certain fire department employees.
- HB 307** Goodman SPONSOR: Harris
Relating to court-ordered representation in suits affecting the parent-child relationship.
- HB 409** Goodman SPONSOR: Nelson
Relating to the appeal of certain orders regarding children in the conservatorship of the Department of Family and Protective Services.
- HB 413** Turner SPONSOR: Gallegos
Relating to the manner of providing notice of a petition or order for the expunction or nondisclosure of certain criminal records.
- HB 472** West, George "Buddy" SPONSOR: Armbrister
Relating to annual fees imposed by the Railroad Commission of Texas in connection with surface coal mining and reclamation operations.
- HB 546** Bailey SPONSOR: Whitmire
Relating to certain medical examination requirements in connection with an allegation of sexual assault of a child.
- HB 596** Smithee SPONSOR: Seliger
Relating to the appointment of judges to the City of Amarillo municipal court.
- HB 678** Goodman SPONSOR: Harris
Relating to the accrual of interest on overdue child support.
- HB 723** Van Arsdale SPONSOR: Lindsay
Relating to certain reports filed with the bureau of vital statistics.
- HB 735** Nixon SPONSOR: Duncan
Relating to updating citations to Chapter 74, Civil Practice and Remedies Code, in the Business & Commerce Code.
- HB 749** Jones, Delwin SPONSOR: Duncan
Relating to size and weight limitations for certain vehicles transporting agricultural products and equipment.
- HB 774** Hegar SPONSOR: Jackson
Relating to the Interstate Pest Control Compact.

- HB 854** Madden SPONSOR: Estes
Relating to an action for damages alleging professional negligence by a registered professional land surveyor.
- HB 883** Seaman SPONSOR: Armbrister
Relating to the disposition of abandoned watercraft and the construction of, and donation of materials for, artificial reefs.
- HB 942** Geren SPONSOR: Deuell
Relating to the registration of antique boats with the Parks and Wildlife Department.
- HB 964** Gattis SPONSOR: Ogden
Relating to the filing fee for candidates for justice of certain courts of appeals.
- HB 1015** Truitt SPONSOR: Jackson
Relating to the continuation and functions of the Texas State Board of Examiners of Psychologists.
- HB 1155** Truitt SPONSOR: Shapleigh
Relating to the continuation and functions of the Texas State Board of Examiners of Dietitians.
- HB 1190** Hartnett SPONSOR: Harris
Relating to trusts.
- HB 1191** Hartnett SPONSOR: Harris
Relating to guardianship matters and proceedings.
- HB 1326** Hope SPONSOR: Whitmire
Relating to community supervision and corrections departments and to the immunity of certain judges for administrative acts in connection with those departments.
- HB 1361** Hardcastle SPONSOR: Jackson
Relating to the development of an animal identification program; providing a criminal penalty.
- HB 1362** Hardcastle SPONSOR: Jackson
Relating to the inspection of livestock at livestock markets.
- HB 1363** Hardcastle SPONSOR: Jackson
Relating to certificates of veterinary inspection.
- HB 1418** Gonzalez Toureilles SPONSOR: Hinojosa
Relating to the justice court technology fund and to requiring the assessment of a technology fee on conviction of certain misdemeanor offenses.
- HB 1528** Woolley SPONSOR: Madla
Relating to the other events trust fund established to support local efforts to recruit or retain certain sports events.
- HB 1531** Jackson, Jim SPONSOR: Harris
Relating to telematics services excepted from private security regulation.
- HB 1695** Hegar SPONSOR: Seliger
Relating to the appointment and jurisdiction of cattle rangers.
- HB 1752** Davis, John SPONSOR: Estes

Relating to the regulation of germicidal treatment of certain bedding, materials, and upholstered items.

HB 1759 Keel SPONSOR: Whitmire
Relating to the eligibility for jury-recommended community supervision and to the conditions of community supervision for certain defendants convicted of state jail felonies.

HB 1820 Otto SPONSOR: Eltife
Relating to the requirements for reporting certain information to the attorney general or the legislature.

HB 1912 Hupp SPONSOR: Nelson
Relating to rates for medical services provided by the Department of Assistive and Rehabilitative Services.

HB 1913 Olivo SPONSOR: Barrientos
Relating to the application of the municipal civil service law for firefighters and police officers to certain municipalities.

HB 1970 Raymond SPONSOR: Zaffirini
Relating to reports and investigations of child abuse and neglect.

HB 1982 Blake SPONSOR: Staples
Relating to the creation and operation of a Texas Certified Retirement Community Program.

HB 2032 Hilderbran SPONSOR: Estes
Relating to the expansion of the operation game thief program to include certain other violations of law.

HB 2096 Bonnen SPONSOR: Janek
Relating to the removal and disposal of certain vessels and structures in certain locations; providing penalties.

HB 2171 Cook, Robby SPONSOR: Armbrister
Relating to the volunteer fire department self-insurance fund.

HB 2256 Gallego SPONSOR: Madla
Relating to the terms of court of the 112th Judicial District.

HB 2274 Cook, Byron SPONSOR: Carona
Relating to the continuation and functions of the Texas Guaranteed Student Loan Corporation.

HB 2298 Smithee SPONSOR: Fraser
Relating to elimination of certain rate rollbacks for insurance premium rates for windstorm insurance.

HB 2377 Swinford SPONSOR: Ellis
Relating to the use of private firms by the Texas Building and Procurement Commission in leasing space for state agencies.

- HB 2379** Swinford SPONSOR: Ellis
Relating to the allocation of certain state office space.
- HB 2475** Delisi SPONSOR: Nelson
Relating to a cervical cancer initiative.
- HB 2549** Nixon SPONSOR: Janek
Relating to validation of certain acts taken by the Westchase District.
- HB 2553** McCall SPONSOR: Gallegos
Relating to the publication of mobile service customer telephone numbers by commercial mobile service providers; providing a civil penalty.
- HB 2555** Kuempel SPONSOR: Harris
Relating to the humane dispatch of certain game animals and game birds.
- HB 3240** Paxton SPONSOR: Averitt
Relating to the exemption from ad valorem taxation of a residence homestead held in a court-ordered trust.
- HB 3489** Dawson SPONSOR: Janek
Relating to the creation of an additional statutory county court in Brazoria County.
- HCR 24** Kolkhorst SPONSOR: Ogden
Designating Navasota the Blues Capital of Texas.
- HCR 37** Delisi SPONSOR: Nelson
Memorializing Congress to increase the presence of federal health and human services agencies, improve coordination of health and human services programs, and increase related funding in Texas.
- HCR 128** Dunnam SPONSOR: Ogden
Designating Madisonville the Mushroom Capital of Texas.
- SB 344** Duncan
Relating to the notice, hearing, rulemaking, and permitting procedures for groundwater conservation districts.
- SB 452** Wentworth
Relating to transferring the duties of the Texas Building and Procurement Commission under the public information law to the attorney general.
- SB 615** Averitt
Relating to the powers of a Special Agent of the Secret Service to effect an arrest, search, or seizure.
- SB 757** Armbrister
Relating to property in the custody of a pawnbroker; providing criminal penalties.
- SB 841** Lindsay
Relating to the creation of the Greater 1960 Improvement District.
- SB 951** Estes
Relating to the operation of certain cemeteries using county resources.
- SB 1105** Madla
Relating to defense adjustment management authorities.

- SB 1120** West, Royce
Relating to the placement of certain students in and funding of a juvenile justice alternative education program.
- SB 1248** West, Royce
Relating to contracts by a school board with a juvenile board for public school transportation.
- SB 1685** Janek
Relating to the licensing and regulation of wholesale drug distributors; providing penalties.
- SB 1749** Janek
Relating to creating a health workforce planning partnership.
- SB 1820** Armbrister
Relating to the creation of the West Fort Bend Management District; providing authority to levy an assessment, impose a tax, and issue bonds.
- SB 1836** Barrientos
Relating to the creation of the Pflugerville Municipal Management District No. 1; providing authority to impose a tax and issue bonds.
- SB 1844** Harris
Relating to scholarships for the fifth year of accounting programs at public and private institutions of higher education.
- SB 1872** Armbrister
Relating to the addition of road district powers to the Fort Bend County Municipal Utility District Number 134; providing the authority to issue bonds.
- SB 1873** Armbrister
Relating to the creation of the Fort Bend County Municipal Utility District No. 167; providing authority to impose taxes and issue bonds; granting the power of eminent domain.
- SB 1887** Ogden
Relating to the creation of the Williamson County Municipal Utility District No. 22; providing authority to impose a tax and issue bonds; granting the power of eminent domain.
- SB 1888** Lindsay
Relating to the creation of the Harris County Municipal Utility District No. 465; providing authority to impose a tax and issue bonds; granting the power of eminent domain.
- SB 1889** Lindsay
Relating to the creation of the Harris County Municipal Utility District No. 464; providing authority to impose a tax and issue bonds; granting the power of eminent domain.
- SB 1892** Madla
Relating to the creation of the Espada Development District; providing authority to provide water and wastewater services and to impose assessments and taxes and to issue bonds.

(COMMITTEE SUBSTITUTE)

HB 2208 Phillips SPONSOR: Zaffirini
Relating to the creation of a cultural and fine arts district program by the Texas Commission on the Arts.

HB 2565 Eiland SPONSOR: Lucio
Relating to prohibiting rebates regarding certain insurance coverage.
(AMENDED)

HB 2892 Luna SPONSOR: Gallegos
Relating to conditions of employment for firefighters employed by certain municipalities.

(COMMITTEE SUBSTITUTE)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 4

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Thursday, May 12, 2005 - 5

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 1097 Bonnen SPONSOR: Williams
Relating to the validation of any act, governmental proceeding, official, bond, or obligation of a navigation district or port authority or a corporation of the district or authority.

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 5

MESSAGE FROM THE SENATE
SENATE CHAMBER
Austin, Texas
Thursday, May 12, 2005 - 6

The Honorable Speaker of the House
House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

HB 168 Deshotel SPONSOR: Armbrister
Relating to the hours for selling alcoholic beverages at certain events.

HB 1018 Noriega, Melissa SPONSOR: Ellis
Relating to the amount of liability insurance required to be maintained on certain school buses owned by a motor carrier.
(COMMITTEE SUBSTITUTE)

SB 555 Janek
Relating to requirements for certain medical treatment consent forms.

SB 751 Van de Putte
Relating to service and disability retirement benefits and death benefits for rescue specialists.

SB 1140 Carona
Relating to requiring a record vote by each house or committee of the legislature on bills, proposed constitutional amendments, amendments to bills and proposed constitutional amendments, and certain other actions and to public notice of the record vote.

SB 1762 Gallegos
Relating to the establishment and operation of a public building mapping information system by the Texas Building and Procurement Commission.

SB 1780 Van de Putte
Relating to the issuance of bonds or other obligations by certain junior college districts.

SB 1883 Ogden
Relating to the lands managed and controlled by the board of regents of The Texas A&M University System.

THE SENATE HAS CONCURRED IN HOUSE AMENDMENTS TO THE FOLLOWING MEASURES:

SB 99 (31 Yeas, 0 Nays)

SB 552 (31 Yeas, 0 Nays)

Respectfully,
Patsy Spaw
Secretary of the Senate

Message No. 6

MESSAGE FROM THE SENATE
SENATE CHAMBER

Austin, Texas
Thursday, May 12, 2005 - 7

The Honorable Speaker of the House

House Chamber
Austin, Texas

Mr. Speaker:

I am directed by the senate to inform the house that the senate has taken the following action:

THE SENATE HAS PASSED THE FOLLOWING MEASURES:

SB 18 Williams
Relating to the adoption of ad valorem tax rates by taxing units and to related tax bills.

Respectfully,
Patsy Spaw
Secretary of the Senate

APPENDIX

STANDING COMMITTEE REPORTS

Favorable reports have been filed by committees as follows:

May 11

County Affairs - **HB 3589, SB 434, SB 919, SB 1027**

Criminal Jurisprudence - **SB 122, SB 166, SB 651, SB 910**

Elections - **SB 1052**

Government Reform - **SB 164, SB 255**

Higher Education - **SB 114, SB 276, SB 929, SB 1118, SB 1193**

Judiciary - **SB 347, SB 436, SB 439, SB 1424, SB 1425**

Local Government Ways and Means - **SB 447, SB 1199, SB 1253, SB 1318, SB 1434, SB 1587, SB 1655**

Natural Resources - **HB 2445, HB 2815, HB 3488, HB 3504, HB 3523, HB 3534, HB 3535, HB 3559, HB 3568, HB 3574, HB 3576, HB 3582**

Urban Affairs - **HB 3492, HB 3522, HB 3532**

ENGROSSED

May 11 - HB 85, HB 260, HB 270, HB 625, HB 955, HB 972, HB 984, HB 988, HB 1068, HB 1074, HB 1120, HB 1317, HB 1318, HB 1366, HB 1379, HB 1532, HB 1535, HB 1547, HB 1572, HB 1582, HB 1644, HB 1767, HB 1816, HB 1821, HB 1830, HB 1940, HB 1952, HB 2145, HB 2187, HB 2215, HB 2239, HB 2303, HB 2376, HB 2390, HB 2463, HB 2525, HB 2572, HB 2668, HB 2696, HB 2747, HB 2751, HB 2801, HB 2819, HB 2833, HB 2837, HB 2839, HB 2868, HB 2879, HB 2905,

**HB 2932, HB 3029, HB 3093, HB 3125, HB 3149, HB 3181, HB 3297,
HB 3376, HB 3514, HJR 32**

ENROLLED

May 11 - HCR 185

SENT TO THE GOVERNOR

May 11 - HCR 185

SIGNED BY THE GOVERNOR

May 11 - HCR 3, HCR 136, HCR 148, HCR 185